



FIFTH EVALUATION
OF THE SPANISH STATE'S APPLICATION OF THE
EUROPEAN CHARTER FOR REGIONAL AND MINORITY LANGUAGES
TO THE BASQUE LANGUAGE

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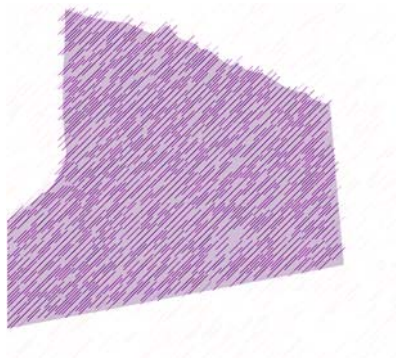
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1. Introduction



According to what was established in article 15 of the Charter, the Parties will periodically present the European Council General Secretary with a report on the policy followed, in accordance with part II of this Charter, and on the measures taken in applying the conditions appearing in part III which they have accepted.

Behatokia, the Observatory of Linguistic Rights, was created on 26th June 2001 with the backing of an important number of representatives from Basque language and trade-union movements.

Behatokia was created from the reflection made by numerous organisms and organisations who work in favour standardising the language. These organisms and organisations created a Social Organisms Council, Kontseilua, in favour of the Basque language and this sowed the seed of what was to become this foundation.

On the other hand, Kontseilua is a platform that comprises numerous associations whose aim is to fully develop the Basque language. Basque language associations have taken the historic step of acting together, despite originally being associations of distinct origin and with different points of view and spheres of activity – this constituting one of the strengths of Kontseilua.

Kontseilua constitutes the essence of a movement that works in favour of the Basque language and disseminates the dynamics of collaboration required to normalize the situation regarding Basque in Basque society as a whole.

Within the reflections made by members of the Kontseilua, they concluded that our linguistic community needed a tool which ran studies on the situation of linguistic rights throughout the language's entire territory. This foundation was totally independent of any institution, administration, etc. but received backing from all the aforementioned organisations.

So, Behatokia took the responsibility, among others, of annually presenting a report on the linguistic rights situation in our territory with two major objectives. On the one hand, offering members of our community self-perception elements for their situation; and on the other hand, offering institutions a tool to know where they must take further action to guarantee these rights.

So, Behatokia is producing this report based on totally unusual information: citizens' own experience. To do this, Behatokia set up a public telephone service where citizens can send us their complaints when these linguistic rights have been violated.

Introduction

In addition to collecting data to prepare its report, Behatokia sends all complaints to the administrations or institutions which have violated these rights, to make them aware of this new perception from citizens who feel that their rights have been affected and who want to apply measures so that it does not happen again.

Since this service was set up, Behatokia has dealt with more than 18.000 complaints and therefore, we believe that it provides very valuable material to assess the linguistic rights situation.

This is why, as we did for the report on applying the Charter, Behatokia has once again justified all its affirmations with different real situations which citizens have undergone in our territory. In the case of implementing the Charter, for example, it is a real way to be able to transmit the distance which exists between adopting the commitment and complying with it. For this reason, we can estimate that the documentation and philosophy which we are presenting in this report will help the Committee of Experts to understand the Basque speaking citizen's real world better and the difficulties which they face on a daily basis.

However, this has not been the only channel to produce this report. On the contrary, Behatokia has checked the report presented by the State with the organisms and organisations in Kontseilua. We have offered each organism the assessment made in each sector: teaching, media, justice, etc. so that they can tell us how they read it.

Therefore, we believe that the information provided in this report is doubly interesting; on the one hand, the real events which we have contributed, and on the other hand, the qualified opinion of organisms and organisations that have offered their assessment.

As a result, at the end of the report, we have added the list of all the organisms which have signed this report and who have delegated this second evaluation of the Charter to Behatokia.

Regarding the legal status of our foundation, the following paragraphs appear in our statutes:

Under the denomination of “Hizkuntz Eskubideen Behatokia Fundazioa” – “Linguistics Rights Observatory” constitutes a foundation. The foundation has been set up under Law 44 of the Navarre regional civil rights compilation or ‘Fuero Nuevo’ and it follows what is laid down in Foral Law 10/96 dated 2nd July in the Tributary Regime for foundations and sponsorship activities.

The “Hizkuntz Eskubideen Behatokia Fundazioa” – “Linguistics Rights Observatory” foundation is a non profit making organisation, which through the wishes of its creators has

attributed its capital for a lasting period to general interest purposes, which are described in art.7 of these statutes

Within the foundational purposes, article 7 explicitly states:

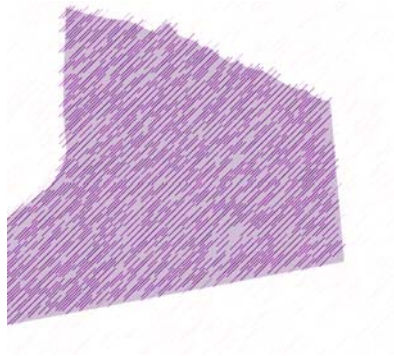
Contribute to the full application and guarantee of linguistic rights recognised by the European Charter of Regional and Minority Languages

Finally, we should note that this foundation is registered in the Government of Navarra Foundations Register by Resolution 2022/2001 with registry number 135, complying with the requirement established in article 16 of the Charter which establishes that the legally established organisms or associations can make the Committee of Experts aware of questions relating to commitments adopted by virtue of Part III.

Furthermore, we would like to remind you that, bearing in mind that Behatokia and Kontseilua work throughout the language's entire territory, the report which we are presenting below offers an exhaustive assessment of the Spanish State and the Government of Navarra and Basque Government regional authorities.



2. Assessment of the Recommendations of the Committee of Ministers in the fourth evaluation



In the 1,245th Meeting of Ministers' Delegates on the 20th of January, 2016, the Committee of Ministers of the Council of Europe passed Recommendation CM/ReChL(2916)1 on Spain's implementation of the European Charter on Regional and Minority Languages.

In accordance with Article 16 of the Charter, the Committee of ministers recommended that Spanish authorities should take into account the Committee of Ministers' observations and recommendations, with particular attention to six of the recommendations.

Departing from our previous practice, on the present occasion we have decided to respond rapidly to the Committee of Ministers' recommendations on account of our grave concern over the position adopted by the Spanish authorities regarding the recommendations.

1. amend the legal framework with a view to making it clear that the criminal, civil and administrative judicial authorities in the Autonomous Communities can conduct the proceedings in co-official languages at the request of one party;

The Spanish authorities have NOT complied with what the recommendation asks. We feel it is very important to underline the "NOT" because the authorities haven't presented a single shred of evidence in their report that demonstrates implementation of the recommendation they received two years ago.

We find that, once more, the Spanish authorities have introduced no changes in the relevant legislation. Furthermore, let us recall that Organic Law 231 of the Judiciary stipulates that in all court proceedings judges, magistrates, prosecutors, secretaries and all other legal and court employees are obliged to use Castilian (Spanish), the official language of the state. It also stipulates that judges, magistrates, prosecutors, secretaries and all other legal and court employees may use the language of their Autonomous Community provided nobody opposes this claiming that they can't speak it; this has the potential to deprive citizens of their rights of defence.

That is the article that must be modified in order to comply with the recommendation of the Committee of Ministers. However, there was no move to change it in the period 2014-2016. Thus there are no grounds whatsoever for claiming that the recommendation has been implemented.

We should also remember that this is not the first time a recommendation has been made to the same effect. The Committee of Ministers issued similar recommendations to the Spanish authorities in three previous evaluations. The Spanish authorities were specifically asked to change

Organic Law 231 of the Judiciary. The Spanish authorities have repeatedly ignored these recommendations:

2005/09/21ko RecChL (2005) 3 Recommendations

Take the necessary legal and practical measures to ensure the implementation of the undertakings under Article 9 of the Charter [...]

2012/10/24ko CM/RecChL(2012)6 Recommendations:

Amend the legal framework with a view to making it clear that the criminal, civil and administrative judicial authorities in the autonomous communities will conduct the proceedings in co-official languages at the request of one party;

Therefore, although the defect was identified in the first evaluation and the authorities were asked to amend it, no effective move has been made and the recommendation remains unheeded.

Furthermore, it is very worrying that in the period 2014-2016 there have been changes to legislation on procedural law regarding language-related issues and yet the opportunity was not taken to incorporate what the Council of Europe had recommended. Organic Law 5/2015 of the 27th of April amended legislation on Criminal Procedure and the Organic Law of the Judiciary, Draft Directive 2010/64/UE of the 20th of October, 2010, legislation about the right to an interpreter and translation in penal procedures, and Draft Directive 2010/13/UE of the 22nd of March 2012 concerning the right to information about penal procedures. It is incomprehensible that these opportunities were wasted to implement the Council of Europe's Committee of Ministers' recommendations which have been repeated so many times.

2. continue to implement legal and step up practical measures aimed at ensuring that an adequate proportion of the judicial staff posted in the Autonomous Communities concerned by the application of Article 9 of the Charter has a working knowledge of the relevant languages;

As in all their previous evaluations, the Committee of Experts or the Committee of Ministers pointed out again that there are serious defects, and made explicit recommendations to Spain's authorities.

2005/09/21ko RecChL (2005) 3 Recommendations

Take the necessary legal and practical measures to ensure the implementation of the undertakings under Article 9 of the Charter, in particular by ensuring that an adequate proportion of the judicial staff posted in the autonomous communities concerned by the application of Article 9 of the Charter has a working knowledge of the relevant languages;

2008/12/10eko CM/RecChL(2008) 5 Recommendations:

Take the necessary legal and practical measures to ensure that an adequate proportion of the judicial staff posted in the autonomous communities concerned by the application of Article 9 of the Charter have a working knowledge of the relevant languages;

2012/10/24ko CM/RecChL(2012)6 gomendioak:

Take the necessary legal and practical measures to ensure that an adequate proportion of the judicial staff posted in the autonomous communities concerned by the application of Article 9 of the Charter have a working knowledge of the relevant languages;

The Spanish authorities took no effective steps in the period 2014-2016 to provide secretaries, prosecutors or judges in the autonomous community who can speak the language adequately. Knowledge of Basque is valued as an extra merit, that is all; this does nothing to ensure that judges, magistrates and secretaries in the autonomous communities will have adequate knowledge of Basque.

It is self-contradictory and paradoxical to employ professionals in the court system lacking any knowledge of Basque when one knows perfectly well that citizens may wish to use the languages in legal procedures.

In their fifth report, the Spanish authorities again fail to specify what steps, changes in legislation or regulations have been adopted to ensure that administrative staff of the courts should be Basque speakers. Nothing is said about the statistics of change in the number of Basque-speaking staff between Spain's ratification of the European Charter for Regional and Minority Languages and the issuing of these recommendations and the present time.

Not only have the Spanish authorities failed to implement the recommendation, they have also refused to inform about the real situation.

3. continue to implement legal and step up practical measures aimed at ensuring the adequate presence of the co-official languages in the State administration at the level of the Autonomous Communities;

The third recommendation is also a reiteration of what was said in earlier evaluations. In our opinion there is no justification for the attitude evidenced by the Spanish authorities, given that the European Committee of Ministers has asked for measures to be taken to ensure adequate presence of all the official languages in the autonomous communities where they are spoken four times now.

This recommendation has been made over and over again:

2005/09/21ko RecChL (2005) 3 Recommendations

Review the recruitment, career and training schemes for the staff of the state administration offices with a view to ensuring that an adequate proportion of the staff in this field posted in the autonomous communities concerned by the application of Article 10 of the Charter has a working knowledge of the relevant languages;

2008/12/10eko CM/RecChL(2008) 5 Recommendations:

Review the recruitment, career and training schemes for the staff of the state administration offices with a view to ensuring that an adequate proportion of the staff posted in the autonomous communities have a working knowledge of the relevant languages;

Ensure the presence of all regional or minority languages in state owned public services;

2012/10/24ko CM/RecChL(2012)6 Recommendations:

- Review the recruitment, career and training schemes for the staff of the State administration offices with a view to ensuring that an adequate proportion of the staff posted in the autonomous communities have a working knowledge of the relevant languages;

- Ensure the presence of all regional or minority languages in State public services;

It is a recommendation that has been repeated constantly since the ratification of the European Charter for Regional and Minority Languages both by the Committee of Ministers and the Committee of Experts. As will be shown in the evaluation of Article 10, we conclude that the recommendation has not been implemented.

Here is an illustrative example to illustrate how the recommendation has not been implemented. The Spanish authorities passed a law in October, 2015, known as Law 39/2015 of the 1st of October, which concerns ordinary administrative procedure in the public administration. Article 15 of the law, regulating the use of languages, is identical to the previous law. It says that the language of procedures regulated by the state's general administration shall be Spanish. Furthermore, as we shall explain in the evaluation of Article 10, the Spanish authorities have issued a number of regulations in the period 2014-2016 making it compulsory to use Spanish.

We are also going to raise questions about the linguistic competence of the staff of the administration. We will show that knowledge of Basque is seldom if ever taken into account even as a merit. What is more, the Spanish authorities have adopted a new strategy to avoid having to take into consideration official languages other than Spanish, by announcing jobs all over Spain. In this manner, even if certain positions are for destinations where other languages are official in the autonomous community, the government dodges having to take knowledge of those languages into account as a merit.

Despite the fact that the same recommendation has been reiterated ever since the first evaluation, not only is the recommendation not implemented, but the Spanish authorities are finding more and more loopholes to avoid having to implement it.

4. continue to implement measures to ensure the presence of co-official languages in public services, especially in health care services;

In this instance the autonomous community's (or regions') authorities are called on to implement the commitment that forms part of the Charter in the health service.

A detailed analysis of the Basque Autonomous Community is found in pages 61-62. Briefly, more effective measures still need to be taken to guarantee the availability of attention in Basque in the health service.

Our analysis of the Autonomous Community of Navarre is in pages 84-87. Not much has changed since the last evaluation. The authorities recognise in their report that a mere 0.61% of staff positions are held by bilinguals. Clearly, that percentage makes it impossible to safeguard Basque speakers' language rights in the health care field or to fulfil the commitment established in the Charter

6. consider extending the recognition of those regional or minority languages with a co-official status in six Autonomous Communities to other Autonomous Communities provided that there is a sufficient number of users of the regional or minority language involved.

Areas continue to exist within the historical Basque language area where the language lacks official status:

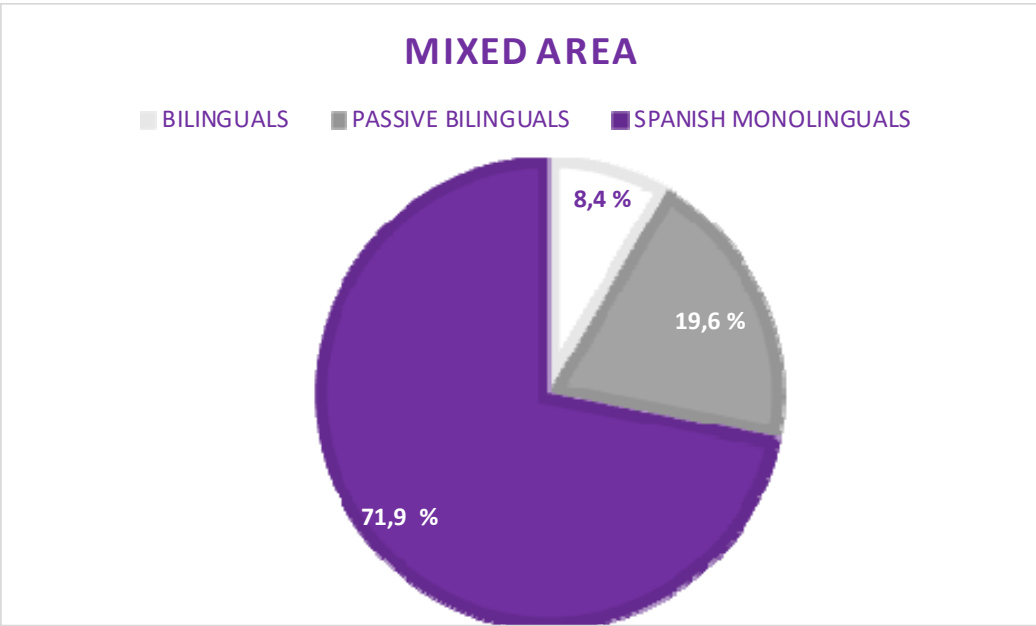
THE AUTONOMOUS COMMUNITY OF NAVARRE

Existing legislation divides the territory into three zones, in only one of which is Basque accorded official status, on account of which Section III only applies to that area.

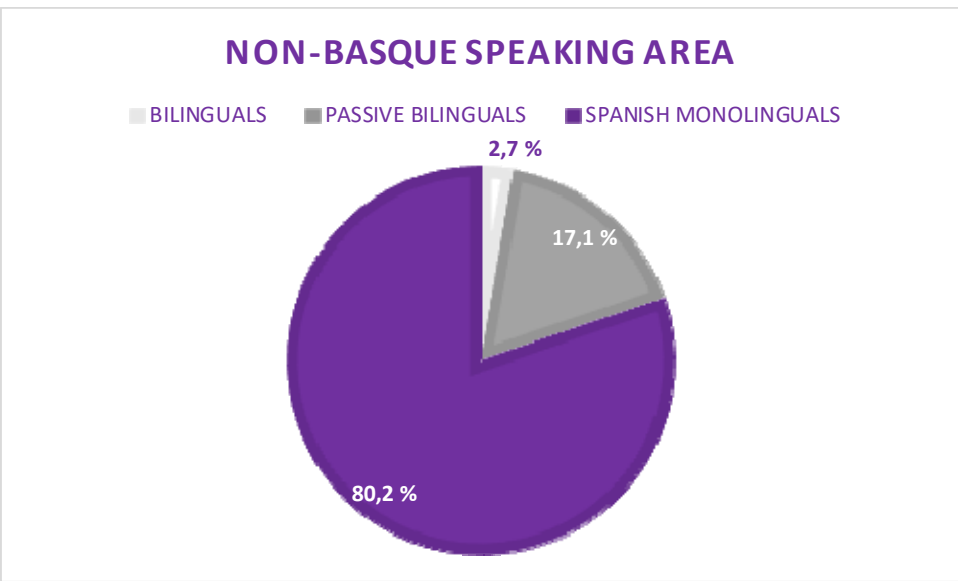
2005/09/21ko RecChL (2005) 3 Recommendations

Consider the possibility of applying an appropriate form of Part III protection to the Basque language within the “mixed zone” as defined by the legislation of Navarra

The Sociolinguistic Survey which the authorities have published gives 2016 data. Here are statistics for the parts of Navarre in which Basque lacks official status. In the mixed zone, where most of Navarre’s population is concentrated:



In the zone that is legally defined as non-Basque-speaking:



It is significant that the sharpest rise in the numbers of Basque speakers between 1991 and 2016 has taken place in the mixed zone, where their proportion of the population has risen from 5.2% to 11.3%. In the legally defined non-Basque-speaking zone, despite the absence of official policies in support of Basque, the public's loyalty to Basque has increased and the number of people who speak Basque has risen during the past twenty-five years. Therefore, the Spanish authorities should be asked once again to extend official status for the language to the entire territory, one of the consequences of which would be to render the commitments in Section III of the European Charter for Regional and Minority Languages applicable to the whole of Navarre.

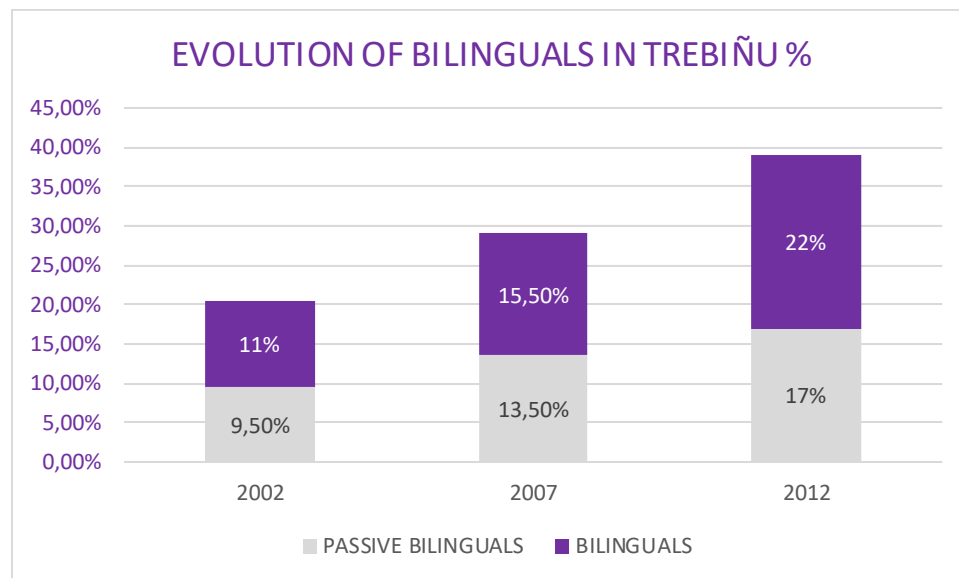
CASTILLE AND LEÓN

Condado de Treviño municipality belongs to an enclave south of Gasteiz which pertains administratively to the province of Burgos (within the Castile and León Autonomous Community). Containing several villages, Treviño has an area of 260.71 km² and had 1,460 inhabitants in 2010.

Geographically embedded inside the Basque province of Araba, the majority of its inhabitants have repeatedly expressed their wish to form part of Araba, yet administratively it remains part of Burgos province. The enclave is made up of Treviño and the small town of Arganzón.



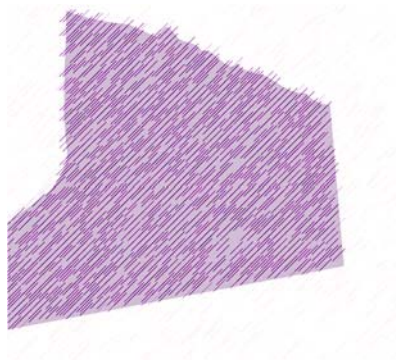
The following information on linguistic competence is taken from sociolinguistic data published by the government of the Basque Autonomous Community in 2012:



There is no good reason for denying official status to Basque in Condado de Treviño or for not applying to it the commitments of Section III of the European Charter for Regional and Minority Languages.



3. Our recommendations



This report describes the situation regarding fulfilment by the Spanish state of the commitments it undertook in the document ratifying the European Charter for Regional and Minority Languages of which it is a signatory. The information presented in the present report has been verified through specific cases reported by Basque citizens to the Observatory of Linguistic Rights.

1. GENERAL RECOMMENDATIONS:

The recommendations in the FIFTH report are a repetition of those in the previous reports. As the data provided show, it is absolutely necessary for effective steps to be taken if the charter is really to be fulfilled

- The authorities should be asked to give detailed information about the degree of compliance with commitments; limit themselves to informing about the period of evaluation under consideration; omit information that is not relevant to the commitment; and refrain from discussing activities and measures that are foreseen in the future..
- The authorities might be asked to take into consideration the political proposal about languages based on the broadest ever social consensus: the **Protocol to Ensure Language Rights** ratified by over a hundred representatives of thirty European minority language communities within Donostia's European Cultural Capital programme in 2016, which recommends specific measures for complying with the commitments in the European Charter for Regional and Minority Languages. It may be very useful as a guide for complying with the Committee of Experts and the Committee of Ministers' recommendations.

1.1. GENERAL ADMINISTRATION OF THE STATE AND JUSTICE ADMINISTRATION

- The General Administration of the State must do more to ensure co-official status, and in the Basque Autonomous Community and the Foral Community of Navarre the official status of Basque should be made as real and effective as that of Spanish, the official language of the state.
- Laws should be passed on measures to hire bilingual employees in the state's general administration
- We lament that recommendations concerning the court system have not been followed since the first evaluation of the Charter. Moreover,

Article 231 of BJLN, for example, has been abandoned since the Council of Ministers and the Committee of Experts made their recommendations. We suggest that the recommendation should be repeated, more emphatically this time if possible.

1.2. BASQUE AUTONOMOUS COMMUNITY

- More measures should be taken to enforce Law 10/1982 concerning the basic regulation of the use of Basque, which was passed on the 24th of November, 1982.
- Provisions should be established for when rights recognised by law in the Basque Autonomous Community are infringed.
- Parts II and III of the commitments should be applied in Trebiñu.

1.3. THE FORAL COMMUNITY OF NAVARRE

- The discrimination to which Basque-speaking civil servants and educators are subjected should end. Civil servants cannot be penalized for occupying a Basque-language post or aspiring to occupy one.
- The current division of the Navarrese linguistic territory into so-called language zones for administrative purposes must go, because it is an obstacle standing in the way of the social and official normalization of Basque language use and implementation of the European Charter of Regional and Minority Languages.

2. SPECIFIC RECOMMENDATIONS:

Article 8: Education

BASQUE AUTONOMOUS COMMUNITY

- The system of language models currently in effect should be reviewed and in its place an education system established which truly ensures that the rights and obligations recognised in the legislation of the Basque Autonomous Community are upheld.
- Guarantees should be put in place to allow technical and professional training to be obtained in Basque.

- Guarantees should be put in place to allow for at least 90% of university-level and higher courses to be in Basque, making it possible to obtain official qualifications in Basque.

THE FORAL COMMUNITY OF NAVARRE

- It should be ensured that technical and professional training schools are available in Basque for all students wishing to study in Basque.
- Measures should be taken to meet the demand for Basque language in public infants education.
- In universities and higher education, loans of at least 60% should be available allowing students throughout the whole of Navarre to study in Basque for officially recognised degrees.
- In adult and continuing education, options should be available for studying all or most subjects in Basque.

Article 9: Judicial authorities

- Adaptation of the Organic Law for Judicial Power are necessary, in particular Article 231, to the obligations taken on by the Spanish State.
- It should be ensured that all oral proceedings, whether penal, civil, social or administrative, can take place before a judge who understands and speaks Basque without an interpreter.
- It should be ensured that all written proceedings can be carried out in the official regional or minority language, should one of the parties so wish.
- Measures should be set up for the obligatory or preferential status of the language (as a requirement) with an aim to providing civil servants in the justice department and students doing law degrees with an effective use of Euskara so as to comply with the previous point.

Article 10: Administrative authorities and public services

GENERAL ADMINISTRATION OF THE STATE

- Basque should really be used, in a proper way, in oral and written communications between the administration and citizens, administrative forms, texts and documents.
- Knowledge of Basque should be made a systematic requirement for people aspiring to posts in the state administration in the Basque Autonomous Community and the Foral Community of Navarre.
- Put in place steps to make it possible for any administrative procedure, whether in person or on-line, to be performed in Basque.
- Abolish regulations requiring the use of Spanish and instead require the use of the other official language.

BASQUE AUTONOMOUS COMMUNITY

- Basque should really be used, in a proper way, in oral and written communications between the administration and citizens, and in administrative forms, texts and documents.
- They should make a special effort in the health and Police areas (Osakidetza-Basque health public system and Ertzaintza-Basque Autonomous).
- Knowledge of Basque should be made a requirement for people aspiring to positions in the administration of the Community, especially in strategic posts which involve attending directly to the public. Special efforts need to be made in this respect by Osakidetza (the public health service) and the Ertzaintza (Basque police), i.e. the Department of Health and the Department of the Interior.

THE FORAL COMMUNITY OF NAVARRE

- The current zoning policy dividing the territory into legally established language zones should be abolished, Basque should be given official status throughout the whole of Navarre
- Basque should really be used, whenever necessary, wherever one might be within the Autonomous Community, in the administration's

oral and written communication with citizens, including all the relevant forms, texts and documents.

- Basque language proficiency should be made a requirement in the selection process of candidates for administrative posts in the Autonomous Community, with particular emphasis on strategic positions that involve dealing with members of the public. A special effort needs to be made here in the health service and the Navarrese police force.

LOCAL ADMINISTRATION

- Real and effective use of Euskara in spoken and written discourse with the general public, administrative texts, forms, papers, and documents.
- The consideration of the knowledge of Euskara as a requirement, especially in specific strategic posts in customer service.

Article 11: Media

GENERAL ADMINISTRATION OF THE STATE

- Both state broadcasting and commercial radio and television stations should reflect the real linguistic situation and the official status of Basque, with proper support for programming in Basque.
- The General Administration of the State should include the only Basque-language newspaper among its channels for institutional advertising.

BASQUE AUTONOMOUS COMMUNITY

- Basque-language media development should be subsidised through formal agreements.
- All administrations should place institutional publicity in Basque-language newspapers and magazines.
- Set a Basque language minimum for media to receive either direct and indirect subsidies.

-

THE FORAL COMMUNITY OF NAVARRE

- A Basque-language television service covering the whole of Navarre should be created.
- Aside from subsidies, ensure the posting of public announcements in Basque language media.
- Set a Basque language minimum for media to receive either direct and indirect subsidies.

Article 12: Cultural activities and facilities

BASQUE AUTONOMOUS COMMUNITY

- Measures should be taken to promote and regulate the use of Basque in the areas of filmmaking, audiovisuals and computing.

THE FORAL COMMUNITY OF NAVARRE

- The number of Basque-language items should be increased in cultural programmes organised or sponsored by public.
- Measures aimed to promote and normalize the use of the Basque in the cinematic, audiovisual and computer fields.
- The use of Basque in all information promoting cultural events.

Article 13: Economic and social life

STATE'S CENTRAL ADMINISTRATION

- • Abolish regulations requiring the use of Spanish and instead require the use of the other official language.

BASQUE AUTONOMOUS COMMUNITY

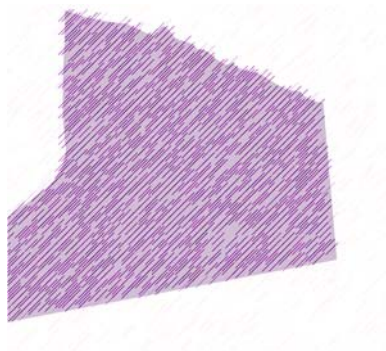
- For consumers' language rights to be fully recognised, one thing that is necessary is measures that can be applied to those who do not obey regulations. Without them, the regulations carry no weight, because companies will not have any obligation to comply with them.

THE FORAL COMMUNITY OF NAVARRE

- The adoption of measures aiming at the recognition and guarantee of the language rights of Basque speaking consumers and users.
- The adoption of measures aiming to promote the use of the Basque in the field of economic and social activity.



4. Basque in the General Administration of the State

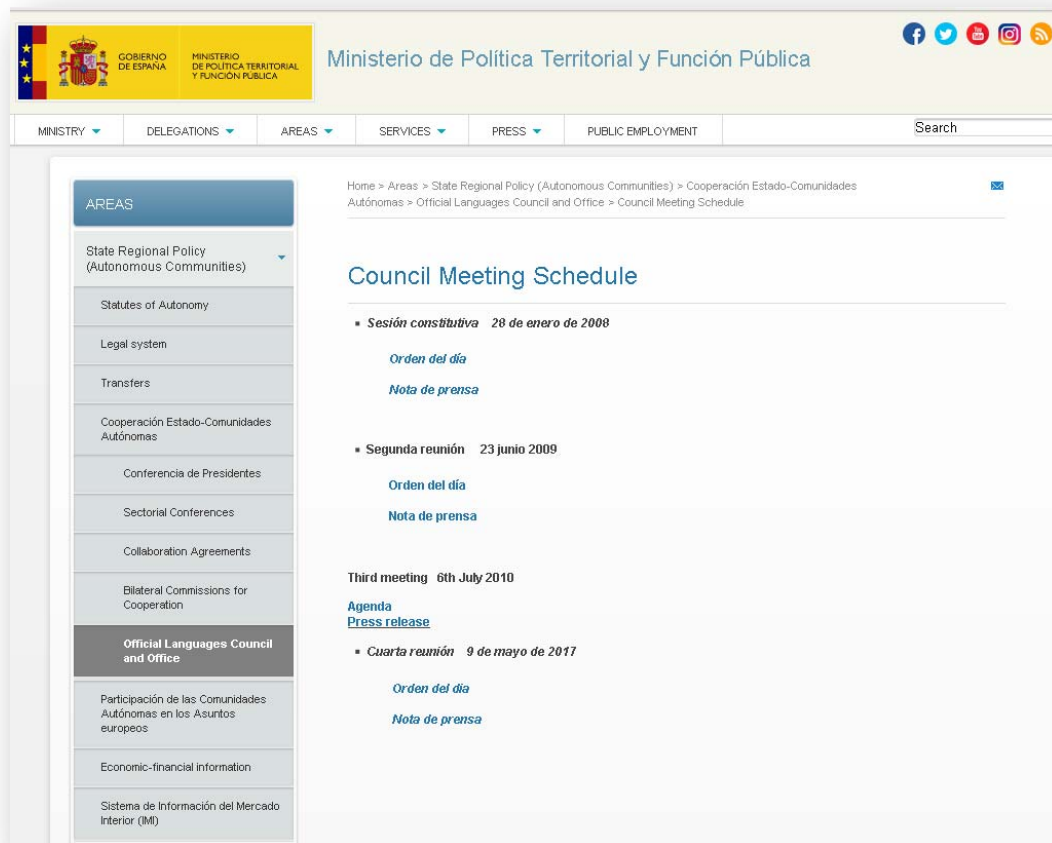


Our first observation concerns the authorities' insistence on the importance of the Spanish general administration's Council of Official Languages.

In previous evaluations we denounced the ineffectiveness of this Council, and we consider it quite outrageous for Spain to continue to allude to the Council's work, given that in the period 2014-2016 **THE COUNCIL IN QUESTION DID NOT CONVENE AND WAS NOT ACTIVE**.

The council did meet in 2017 in order to discuss the European Charter for Regional and Minority Languages, merely because a report had to be written.

What we have to say about the Council is the same thing we said last time: since May, 2010 it has remained dormant.



Article 10: Administrative authorities and public services

1. Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible::

a) i) to ensure that the administrative authorities use the regional or minority languages;

The recommendations made in the last four evaluations by the Committee of Ministers and the Committee of Experts have made it clear that the Spanish state administration has one of the worst records in implementation of the commitments. Each and every one of the earlier evaluations included specific recommendations of the Ministers' or Experts' committees regarding the state's administration.

Both committees expressed their concern about the lack of adequate linguistic competence among staff inside the parts of the state administration operating in places where there is more than one official language, for which reason the state has repeatedly been asked to take particular measures to ensure that this situation is not perpetuated.

The statement by the authorities in their response, to the effect that only 6.8% of staff in the Basque Autonomous Community are fully fluent in Basque, is incredible and deeply disturbing.

Yet we find it even more worrying that the authorities' report should state that in posts for the Basque Autonomous Community knowledge of Basque is counted as a merit, even in the cases of the National Police and the Civil Guard.

Here are a couple of examples which show that information to be inaccurate.

- Concerning the civil servant examination for entry into the Civil Guard at the level of "guardia" and corporal, as established by Resolution 160/38045/2015 of the 6th of May, Appendix II of the resolution states: Evaluation of merits, 2.1. Language skills, English, French and German. NOTHING IS SAID ABOUT ANY EVALUATION OF OTHER OFFICIAL LANGUAGES
- In exams for entry into the National Police there is an optional language test, but only for English and French. The weighting of these corresponds to that of time of service in the armed services and high-level sport experience. THERE IS NOT A WORD ABOUT EVALUATING KNOWLEDGE OF OTHER OFFICIAL

LANGUAGES. See for example the Resolution of the 29th of April, 2015 of the General Directorate of the Police.

We would like to ask the state how knowledge of the official languages is valued, when it has no place in the recruitment process.

We are also very concerned about the assignment of merits (or not) to knowledge of Basque in other civil service jobs. The authorities claim knowledge of Basque is taken into consideration, but we see no sign of any such thing in these recruitment campaigns:

- Order HAP/2294/2015, 21st of October, 1,332 jobs
- Order HAP/998/2016, 17th of June, 2,867 jobs

No consideration was given to knowledge of other official languages in recruitment for any of these positions and it was assigned no merits in the examination phase. There is no way to find out which of these positions were for people stationed in the BAC, Navarre, Galicia, Catalonia, Valencia or the Balearic Islands. There seems to be a new strategy in recruitment campaigns for state civil service jobs to have no requirement of knowledge of other official languages besides Spanish and to attach no value to knowledge of them.

We would like to ask the state how many new staff were employed in the 2014-2016 period, for how many of them is knowledge of Basque a requirement, and what value was assigned to knowledge of Basque in the rest.

We must express our distrust of some of the percentages given by the authorities for staff attending to the public who are able to speak Basque, and point out that no effective steps were taken in the 2014-2016 period to improve this situation.

The lack of linguistic competence among staff has had a negative impact on the ability to attend directly to members of the public in Basque. For example, we have received many complaints from citizens about only being able to receive attention in Spanish when they apply to obtain or renew their national identity document.

Another a measure of Spain's degree of compliance in the period 2014-2016 with the most recent recommendations of the Committee of Ministers that we find worrying is the passage of Law 369/2015 on General Administrative Procedure, which fails to improve on the stipulations of its predecessor regarding language use.

Hence the authorities have missed yet another opportunity to implement the Committee of Ministers' recommendation. According to the article regulating language use, Spanish is to be the language of procedures for

which the state's General Administration is responsible without any consideration for other languages of the territory concerned.

Moreover, even though Article 15 of the law acknowledges the right of citizens to use the other official language of the community, it makes it obligatory for Spanish to be used if there are other parties and there is any conflict over choice of language.

It also requires that Spanish must be used in documents having any effect beyond the autonomous community.

Again: the authorities have missed a new opportunity to rewrite the current regulations in accordance with the spirit of the Euro-Charter.

It should also be pointed out that once again a number of regulations approved by the state in the period 2014-2016 require the use of Spanish, thereby eclipsing the languages protected by the Euro-Charter. According to a study by the Plataforma per la LLengua, which supports Catalan, between 2015 and 2016 the Spain's official gazette published 52 legal provisions which all make it obligatory to use Spanish.

Concerning the Basque Autonomous Community:

Dossier 26-2013: A member of the public who went to the Donostia office to process their identity card was assigned a member of staff who was unable to communicate in Basque. Dossier 477-2013: Another member of the public went to the Bilbao office for the same purpose and the same thing happened.

At the traffic department, with a high volume of attention to members of the public, the same situation frequently arises where members of the public are unable to get attention in Basque, and this has given rise to a large number of complaints received by Behatokia.

Dossier 101-2014: A member of the public was told "Speak Spanish" by a Bilbao traffic department staff member on the phone. When the caller asked the government employee to calm down, the employ retorted rudely (in Spanish): "Who the hell do you want to talk to?"

Dossier 378-2014: A member of the public went to the traffic department in Donostia, found that there were no members of staff attending to the public who spoke Basque, and requested a form to file a complaint. They were handed a blank sheet of paper.

Dossier 321-2015: Another member of the public went to the same office and had the same issue: there was not a single staff member who could attend to them in Basque.

Another administration office that attends to members of the public very frequently is Social Security. Behatokia received complaints about violations of rights here too in the period 2014-2016, for example:

Dossier 340-2013: A member of the public went to the Social Security office in Bilbao and could not get attention in Basque. Dossiers 663-2015, 768-2015 and 940-2015: Members of the public could not obtain service in Basque at the Donostia Social Security offices.

Dossier 1048-2016: Although a member of staff gave signs of understanding Basque, they asked the member of the public to speak Spanish. Dossier 885-2015: A staff member at the Bilbao office retorted to a member of the public who approached them speaking Basque: “If you’re going to talk to me in Basque we’re off to a bad start.” And the list goes on.

This demonstrates that the procedures now in place for hiring staff are of no use for ensuring that attention to members of the public in Basque will be provided.

Concerning the Foral Community of Navarre:

Behatokia has also processed a high volume of complaints in Navarre regarding the services of Spain’s General Administration referring to social security, the so-called “tax agency” (agencia tributaria), police offices etc. The reasons for the complaints are similar to those already mentioned.

However, we found one complaint in particular (Dossier 919-2014) especially worrying. A member of the public went along to the public employment office, INEM, and although they speak Basque at work, the person was required to fill in forms in Spanish. Because not a single member of staff could speak any Basque and the person did not have a good mastery of Spanish, they ended up having to go back three times in order to receive money that they were legally entitled to.

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El Gobierno ha puesto en marcha un plan de ayudas para facilitar la adaptación de los edificios a los cambios del Dividendo Digital en los edificios que lo necesitan.

Las ayudas se solicitan a través de internet una vez realizadas las actuaciones y están destinadas a las comunidades de propietarios de edificios que tengan instalado un sistema de antena colectiva basado en monocanales o en una centralita programable.

Las comunidades de propietarios deberán disponer de NIF y ser titulares de una cuenta bancaria a su nombre donde se ingresará el importe de la ayuda.

Podrán solicitar las ayudas, directamente las Comunidades de propietarios o en su nombre el Administrador de la finca o la empresa instaladora de telecomunicación que haya realizado la adaptación de la antena colectiva.

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Tipos de actuación	Cuanta máxima a la solicitud
Ampliaciones	1500€
Instalación	2500€
Cambio de 1 a 4 amplificadores	3500€
Cambio de 4 a 10 amplificadores	4500€
Cambio de 10 a 20 amplificadores	5500€
Centralita programable	1000€

En la página www.televisiodigital.es se puede consultar el número de múltiples digitales afectados en cada zona, lo que permite a las comunidades de propietarios conocer el tipo de ayuda a la que tienen derecho y la cuantía de la misma. Para solicitar la ayuda, las comunidades de propietarios deberán presentar el presupuesto del instalador, que deberá estar inscrito en el Registro de empresas instaladoras de telecomunicaciones del Ministerio de Industria, Energía y Turismo en los tipos "A" o "B".

La Comunidad debe guardar, una vez finalizados los trabajos, la factura y el boletín de instalación que detalle el tipo de actuación realizada y la cuantía de la ayuda solicitada, así como el motivo de la adaptación al Dividendo Digital que deberá



JEFATURA PROVINCIAL DE TRÁFICO
GIPUZKOA

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GIPUZKOA

Apreciado/a conductor/a

Me complace adjuntarle su nuevo permiso de conducción en sustitución del que pudiera tener anteriormente.

Quiero recordarle la necesidad de que siga haciendo un uso responsable del mismo. La seguridad en nuestras ciudades y carreteras depende en parte de que usted siga conduciendo siempre con la máxima atención y prudencia, respetando a los demás, cumpliendo con rigor las normas de circulación y extremando la precaución en todo momento.

Gracias a la colaboración de todos y a las mejoras realizadas en el ámbito de la seguridad vial, estamos consiguiendo reducir el número de accidentes y de víctimas. Pero no es suficiente. Ni mucho menos. Hemos de seguir trabajando juntos en favor de la seguridad.

Le deseo que disfrute de una conducción tranquila y feliz.

Dirección General de Tráfico

Puede consultar sus puntos en www.dgt.es



<p>Por su seguridad, no lo olvide:</p> <ul style="list-style-type: none"> • El alcohol y las drogas son incompatibles con la conducción. • El cinturón y el casco salvan vidas. • Ajuste la velocidad a las condiciones de la carretera. • En carreteras convencionales extreme la precaución. • Respete las normas de tráfico. • Conducir requiere toda su atención. 	<p>Per la vostra seguretat, no ho oblideu:</p> <ul style="list-style-type: none"> • L'alcohol i les drogues són incompatibles amb la conducció. • El cinturó i el casc salven vides. • Ajusteu la velocitat a les condicions de la carretera. • A les carreteres convencionals extremeu la precaució. • Respecteu les normes de trànsit. • Conduir requereix tota la vostra atenció.
<p>Zure segurtasunez, ez ahaztu:</p> <ul style="list-style-type: none"> • Alkohola eta drogak gidatzean bateraezinak dira. • Uhatak eta kaskoak bizitzak salbatzen dituzte. • Abiadura egoki lezaiozu errepidearen egoerari. • Arreta muturreraino eraman ezazu errepide arruntel. • Trafikoko arauak errespetatu itzazu. • Gidatzeak zure arreta osoa eskatzen du. 	<p>Pola súa seguridade, non o esqueza:</p> <ul style="list-style-type: none"> • O alcohol e as drogas son incompatíbeis coa conducción. • O cinto e o casco salvan vidas. • Axuste a velocidade ás condicións da estrada. • En estradas convencionais extreme a precaución. • Respete as normas de tráfico. • Conducir require toda a súa atención.

Puede consultar sus puntos en www.dgt.es

MINISTERIO DEL INTERIOR

DIRECCIÓN GENERAL DE TRÁFICO
JEFATURA PROVINCIAL DE TRÁFICO
NAVARRA

AUTORIZACIÓN TEMPORAL PARA CONDUCIR

AUTORITZACIÓ TEMPORAL PER (A)CONDUIR
AUTORIZACIÓN TEMPORAL PARA CONDUCIR
ALDI BATERAKO GIDATZEKO BAIMENA

1. DNI-NIE:	2. CLASE DE PERMISO O LICENCIA: B	
3. APELLIDOS:		
4. NOMBRE:		
5. OBSERVACIONES:		
6. LUGAR DE EXPEDICIÓN: NAVARRA	7. FECHA DE EXPEDICIÓN: 12/2015	8. VÁLIDO HASTA: 03/2016

1.- DNI-NIE / DNI-NIE / NAN-AIZ
2.- Clase de permiso o licencia / Clase de permiso ou lizenza / Gidatzeko baimen edo lizenzia mota
3.- Cognome / Apellidos / Abizenak
4.- Nom / Nombre / Izena
5.- Observacions / Observaciones / Oharrak
6.- Lloc d'expedició / Lugar de expedición / Baimena emandako tokiak
7.- Data d'expedició / Data de expedición / Baimena emandako data
8.- Vàlid fins a / Válido até / Noiz arteko baima

VÁLIDA PARA CONDUCIR POR ESPAÑA SI VA ACOMPAÑADA DE UN DOCUMENTO OFICIAL DE IDENTIFICACIÓN

VÁLIDA PER A CONDUIR PER ESPANYA SI VA ACOMPANYADA D'UN DOCUMENT OFICIAL D'IDENTIFICACIÓ / VÁLIDA PARA CONDUCIR POR ESPAÑA SE VAI ACOMPANYADA DO DOCUMENTO OFICIAL DE IDENTIFICACIÓ / ESPAINIAN GIDATZEKO BALIAGARRIA DA, BAINA NORTASUN AGIRI OFIZIALEN BATEKIN BATERA

- b) to make available widely used administrative texts and forms for the population in the regional or minority languages or in bilingual versions;*
c) to allow the administrative authorities to draft documents in a regional or minority language.

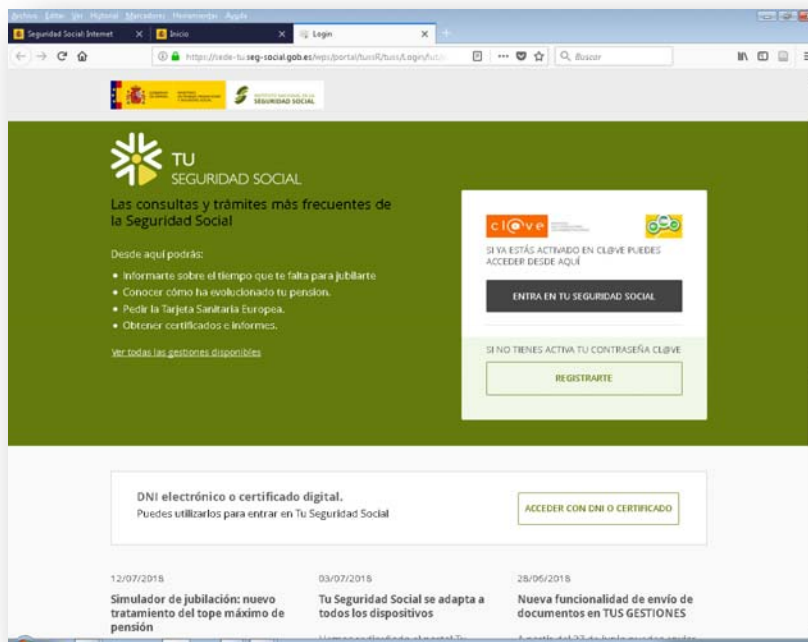
At this point we turn our attention to the administration's on-line services, for we need to remark on the huge issues with the on-line procedures offered by the Spanish administration. The following list includes a few of the formalities that cannot be carried out in Basque:

- Obtain an appointment to renew an identity card or passport
- Paperwork relating to social security
- Obtain an appointment at the traffic department
- Apply for a European health card
- Spanish bank services, etc.




The screenshot shows the 'Cita previa e DNI-Pasaporte' page of the Cuerpo Nacional de Policía. The header includes the logo of the Ministerio del Interior and the text 'Cuerpo Nacional de Policía'. The main title is 'cita previa e DNI-Pasaporte'. Below the title, there is a section titled 'Solicitud de Cita Previa para DNI o Pasaporte'. The page contains several paragraphs of text providing instructions on how to request an appointment, including details about the required documents (DNI or NIE) and the process for different types of appointments (individual, first-time registration of a child, or multiple appointments). There is also a section for 'Ayuda' (Help) and a 'Contactar' (Contact) link. At the bottom, there is a footer with the text 'MINISTERIO DEL INTERIOR. Dirección General de la Policía. Cuerpo Nacional de Policía.'

The screenshot shows the 'Entrada al Sistema' (System Entry) page of the Cuerpo Nacional de Policía. The header includes the logo of the Ministerio del Interior and the text 'Cuerpo Nacional de Policía'. The main title is 'Entrada al Sistema'. Below the title, there is a section titled 'Para obtener cita para DNI y/o Pasaporte se deben introducir los datos del documento de la persona que va a reservar la cita. Todos los campos son obligatorios.' (To obtain an appointment for DNI and/or Passport, the data of the document of the person who is going to reserve the appointment must be entered. All fields are mandatory). The form includes fields for 'Tipo de Documento' (DNI or NIE), 'Número de Documento' (Document Number), 'Letra' (Letter), 'Equipo de Expedición' (Issuance Unit), 'Fecha de Validez' (Validity Date), and a section for 'Introduzca los caracteres que visualiza a continuación' (Enter the characters you see below) with a visual verification image showing the characters 'XIC'. There is also a 'Recuerde' (Remember) section with a warning not to cancel the appointment if it is not possible to attend. At the bottom, there is a footer with the text 'MINISTERIO DEL INTERIOR. Dirección General de la Policía. Cuerpo Nacional de Policía.'

Basque in the General Administration of the State



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SOLICITUD DE CITA PREVIA PARA TRÁMITES EN OFICINA

Oficina donde desea solicitar la cita (*):

Únicamente podrá reservar 2 cita/s para un día concreto, independientemente de que posteriormente sean anuladas.
Se podrá solicitar 2 cita/s para el mismo área de tramitación, si quiere reservar más citas, se dará la posibilidad de anular la anterior.

Área: Trámites generales
INCLUYE REALIZACIÓN DE TODO TIPO DE TRÁMITES Y LA EXPEDICIÓN DEL PERMISO INTERNACIONAL.
NO INCLUYE:
1-Canje permiso de conducir UE, EEE, Andorra, Corea del Sur, Japón y Mónaco.
2-Canjes de otros países:
Para estos dos trámites soliciten cita de canjes permisos en Sede Electrónica DGT 6 Theo OEO.
Impresos y hojas informativas en sede electrónica (<http://www.dgt.es/es/hojas-informativas/index.shtml>).
Puede obtener informes de vehículos en Sede Electrónica DGT (<https://sede.dgt.gob.es/es/tramites-y-multas/tu-coche/informe-de-vehiculo/>).
NOTA: Las tasas se abonarán en Jefatura únicamente con tarjeta bancaria. En metálico por internet o en entidad financiera (mod. 793).
Trámites tratados en este área:
Trámites generales.

Antes de solicitar la cita debe conocer la oficina y el área del trámite al que se quiere acceder, ya que según cada área tendrá unos horarios diferentes.
Una vez haya seleccionado el área pulse sobre el botón CONTINUAR.

(*): campo obligatorio

Aviso legal | Accesibilidad

The screenshot shows the 'Sede Electrónica' (Electronic Office) portal of the Spanish Social Security system. The main heading is 'Solicitud y renovación de Tarjeta Sanitaria Europea' (Application and renewal of European Health Card). Below this, there is an 'Importante' (Important) section with two bullet points: 'En la parte inferior de la página existe información para rellenar correctamente el formulario.' and 'Solo se debe rellenar un domicilio (Residentes en España o residentes fuera de España)'. The 'Tipo de solicitud' (Type of application) section has three radio button options: 'Solo para el titular del derecho (trabajador o pensionista).', 'Para el titular del derecho (trabajador o pensionista), y beneficiarios a su cargo. Indique cuantos' (with a dropdown for 0), and 'Solo para beneficiarios a cargo del titular del derecho (trabajador o pensionista). Indique cuantos' (with a dropdown for 0). The 'Datos personales del titular del derecho (trabajador o pensionista)' section includes fields for 'Nombre', '1º Apellido', '2º Apellido', 'Nº afiliación S.S.' (with a dropdown for NP or NE), 'Correo electrónico', and 'Nº de Documento'.

The screenshot shows the 'BANCO DE ESPAÑA' (Bank of Spain) website. The main heading is 'Presentar Reclamación, queja o Consulta' (Present claim, complaint or inquiry). Below this, there is a section 'Seleccione entre las siguientes opciones:' (Select from the following options:). The text '¿Como va a realizar la presentación de su solicitud?' (How are you going to make the presentation of your request?) is followed by two buttons: 'Electrónicamente' (Electronically) and 'En papel' (On paper). The footer includes the copyright notice '© 2013 Banco de España, Madrid, España. Reservados todos los derechos' and the contact information 'Información de soporte: 91.338.66.66, Email: cau@bde.es'.

The screenshot shows the 'Cí@ve' (Cí@ve) website, which is the official portal for the Spanish Social Security system. The main heading is 'Autenticación' (Authentication). Below this, there is a section 'Seleccione una opción' (Select an option) with three radio button options: 'Utilizar la App Cí@ve PIN para obtener el PIN (recomendado)', 'Usar el navegador para obtener el PIN y recibir un SMS', and 'No estoy registrado en Cí@ve'. The text 'En su dispositivo móvil utilice la APP Cí@ve PIN para solicitar un PIN' (On your mobile device use the APP Cí@ve PIN to request a PIN) is followed by two buttons: 'Google play' and 'App Store'. The footer includes the copyright notice '© 2013 Banco de España, Madrid, España. Reservados todos los derechos' and the contact information 'Información de soporte: 91.338.66.66, Email: cau@bde.es'.

Article 13: Economic and social life

The Spanish administration puts nothing but obstacles in the way of implementation of the commitments included in the sections of the Euro-Charter concerned with economic and social life. In fact, it uses legislation and regulation as a tool to prevent their application.

An in-depth study of this has been carried out by the Catalan NGO *Plataforma per la Llengua*. Some examples from that report are reproduced here:

- February 2014, with the favourable votes of the PP and the PSOE, the amendment of the State Law of consumers and users was approved, so that from then on, entrepreneurs were obliged to provide information on contracts in Castilian, making it optional in other languages.
- Act 5/2014, of 4 April, on private security, imposes the knowledge of Castilian to foreigners applying to this profession.
- Order HAP/1369/2014, of 25 July, approving the basic regulation of cross betting, and amending various ministerial orders approving the basic regulation of certain games.
- Order HAP/1370/2014, of 25 July, approving the basic regulation of gambling on slot machines.
- Act 20/2015, of 14 July, on the organisation, supervision and solvency of insurers and reinsurers, imposes the use of Spanish for insurers and reinsurers located in other Member States of the European Union, and who are authorised in their state of origin and want to operate in Spain, when it comes to their contractual documentation and any requirements of the Directorate-General of Insurance and Pension Funds (article 51.4). It also requires the Spanish translation of the resolution of the appointment agreement, or appointment of provisional administrators and liquidators of these types of entities, as designated by the competent authority of another Member State to perform their function in Spain (article 167.4).
- Act 24/2015, of 24 July, on patents, imposes the use of Castilian in the applications to be filed in the Spanish Patent and Trademark Office, also in 'the Autonomous Communities where there is another official language', where the use of this is merely optional and, furthermore, it is not considered authentic in the case of doubts over interpretation (article 23.3).
- Royal Decree 989/2015, of 30 October, which approves the Regulation of pyrotechnic articles and cartridges (article 5.1.g, 5.3.c and *i*, 5.4.b, 13, 109, 113.1, 115.b, 144.2).
- Royal Decree 188/2016, of 6 May, approving the Regulation establishing the requirements for the marketing, launching and use of radio equipment, and regulating the procedure for the evaluation of

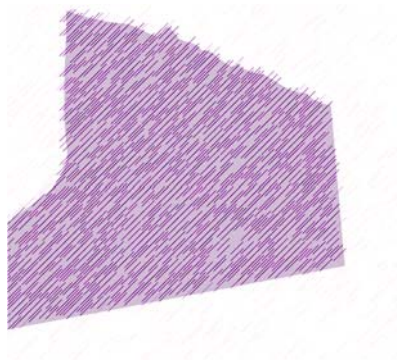
compliance, market surveillance and the sanctioning regime of telecommunication equipment. It imposes Castilian in some cases.

- Royal Decree 98/2016, of 11 March, regulating the safety, technical and marketing requirements of nautical motorcycles, sports boats and their components (articles 16, 17.1, 29.2 and 5).

Moreover, as the Government of Catalonia stated in their report of the implementation of the Charter: The TS has reached the point of considering that the mere literal wording of a text in Spanish in a state regulation prevents its wording in the official language of the region where it will be applied. This criterion denies the official status and protection of the relevant language as established by the legal system, denies the material and linguistic competences of the autonomous governments in all areas in which the State decides to intervene and, ultimately, the State is once again ignoring the wording and spirit of the European Charter for Regional or Minority Languages



5. Basque in the Basque Autonomous Community



Article 8: Education

1. With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

a) i) to make available pre-school education in the relevant regional or minority languages

b) i) to make available primary education in the relevant regional or minority languages;

c) i) to make available secondary education in the relevant regional or minority languages;

According to Law 1/1993, the law of the Basque public school, all pupils must be fluent in both official languages by the time they finish their period of compulsory education. Evidently, this law goes further than what the Charter's commitment requires.

Nonetheless, there are points to clarify.

The linguistic competence which pupils must achieve by the end of their compulsory education is directly linked to the official status of the languages in this autonomous community.

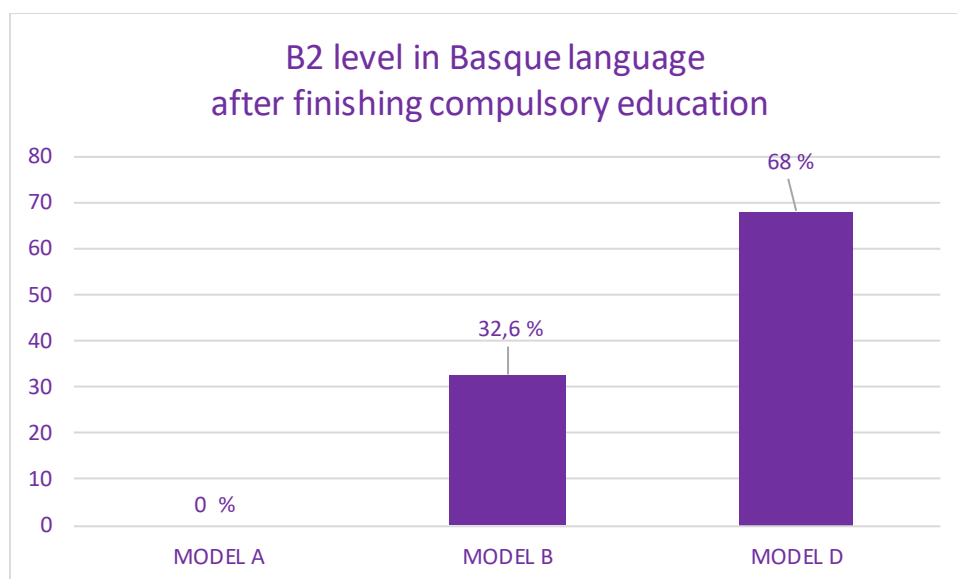
The requirement for pupils to achieve adequate mastery of both official languages is a legal consequence of their official status in the Spanish state.

However, the real situation that is found comes nowhere near what the law implies.

Three language regimes or “models” are distinguished in the Basque Autonomous Community, as follows:

- Model A: Teaching through Spanish, Basque taught as a subject
- Model B: Some subjects are taught in Spanish and some in Basque
- Model D: Teaching through Basque, Spanish taught as a subject

It is true that, as the authorities' report says, a growing number of pupils are going into the Model B and D programs. However, note should be taken of the following findings from a study of Basque language competence of pupils in the last year of compulsory secondary education that has been carried out by the Basque Autonomous Community government itself:



Therefore, thousands of pupils each year still lack adequate fluency in Basque upon completion of their compulsory education, and in this way the current school system is giving rise to discriminatory situations between citizens.

If the statistics alluded to by the authorities are taken as applicable, the consequence would be that 52.93% of pupils achieve a B2 level in Basque upon completion of Compulsory Secondary Education, and the remainder of pupils don't.

But Behatokia has also received complaints from citizens in this period, such as Dossier 117/2013 which points out that students in a town in Araba province have no opportunity do their higher secondary education (bachillerato) in Basque; they have to switch to schools in other towns if they wish to continue in Basque.

d) i) to make available technical and vocational education in the relevant regional or minority languages;

In their report, the authorities do not specify how many modules are offered in Basque. For this reason, it is impossible to know whether the commitment is implemented or not.

Dossier 484-2014: A member of the public told Behatokia that in an announcement of course offerings for occupational training in 2014-2015 at a public or publicly subsidized centre in the BAC, only 16% of the options were in Basque. 50% were in Spanish only. In the remaining 34%, the course would be offered in Basque if enough people signed up, otherwise in Spanish only.

We have received other complaints about occupational training, such as 587-2013, where we were told that a higher education programme exists to study Socio-cultural and Tourist Activities Organisation at a public centre in Bizkaia province, in which people are offered a Basque language option when enrolling but in actual fact only three of the seven subjects that make up the programme are taught in Basque.

Dossier 482-2014: A mother complains that after her daughter had gone all the way through school in Basque, the area of occupational training she wanted to study wasn't offered through Basque. In some cases a bilingual course is announced, but without assurance that the class will take place because the language of instruction is the criterion of lowest priority on the scale applied when setting up classes: centre—study area—stage—grade—language of instruction. The upshot is that students who wish to use the bilingual system are at a disadvantage in comparison to those who only study in Spanish.

We have also received a number of complaints from those studying on-line:

Dossier 326-2014: A member of the public inquired about doing a degree on-line. Of the seven degree options given in occupational education, only one of them could be done in Basque.

A very similar complaint was received from someone else the following year. Dossier 55-2015: a member of the public filed a complaint because the whole range of occupational education degrees offered was exclusively in Spanish.

Then in 2016 the same person wrote to Behatokia again. Dossier 550-2016: In spite of listing three classes in Basque in which people could enrol, they were only allowed to do two of them in Basque, because not enough people had signed up for the third one.

The point is that the number of students who apply to do their studies in Basque in compulsory education is on the increase; since they go through school using Basque, it is a challenge for them to have to switch over to studying in Spanish when they reach occupational education.

Our suggestion to the Committee of Experts is that they should ask for updated information about vocational education.

e) i) to make available university and other higher education in regional or minority languages;

The authorities claim that 77% of courses for credit are offered in Basque, but the provision is poorly balanced, witness some of the complaints that have passed through our hands.

Dossier 935-2015: A student complains that there is no provision in Basque of a Master's degree for Law students which is a requisite to become a lawyer; having taken all their classes in Basque they are now denied the option of doing this obligatory Masters in Basque.

There are similar complaints from engineering students who are forced to do a lot of their subjects in Spanish.

But the most talked-about incident is one which took place at the faculty of medicine. Students have been actively demanding to be able to study medicine through Basque. The following complaints was made as a result:

The first stage of the degree is given almost entirely in Basque, but in the second stage there is an abrupt change: the second stage is offered in four teaching centres or hospitals. In one of them, students enrolled in Basque are only able to take 50% of the theoretical class hours in Basque; what is more, there are no optative subjects that can be taken in Basque, and practically all the practicals are in Spanish. At another study centre, 36% of the classes are in Basque, and at a third 65%. At one of the hospitals none of the theoretical classes or practicals are in Basque even when students enrol to study in Basque.

According to these students, responsibility for hiring university staff is shared between the individual departments, the dean's office and the vice-chancellor's office. The departments' hiring criteria are unclear: knowledge of Basque is not taken into account although certain merits and other factors are taken into consideration.

The students also talk about bad working conditions for the staff who teach in Basque. Aside from the extra work they do to translate materials, there is notable inequality in working hours compared to the staff who teach in Spanish.

We suggest that the authorities should be asked to implement steps to ensure that it is possible for faculties like Medicine to offer whole degrees entirely in Basque.

f) i) to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages;

There are two areas in need of study within this commitment:

Adult Basque language learning

Historically, the teaching of Basque to adults has taken place in specialized schools, of which there are currently 38 in the Basque Autonomous

Community that are publicly administered and another 59 run by grassroots initiative.

Despite the increases in the most recent 2014-2016 period reported in the authorities' report, the results are a far cry from those seen in the data for the 2009-2010 school year. The way the information is presented does not reflect the real situation in our opinion. Nowadays many different kinds of Basque language courses are offered to adults. Among those who are learning are some who are receiving ten class hours per week, while others have six hours. From their number alone it is hard to discern the actual progress of adult Basque language learning.

We suggest that the Committee of Experts should ask for more details about the courses in which those people are enrolled including the number of class hours per week. There is also the question of grants to comment on. The authorities' report claims that in spite of some problems with the grants in 2014-2016, the money provided by the Basque Government in the last school year has risen.

It is important to emphasise the following point. As the authorities say, the institutions of the area provide grants to adults to study Basque. Some town councils also contribute.

All the grants are compatible with those given by the Basque Government, but this results in a highly discriminatory situation where, depending on where in the Basque Country someone lives, they may be paying more or less out of their pockets to learn Basque.

Therefore we think it would be fairer for grants to learn Basque to be administered through a one-stop system, and for Basque lessons to be free for citizens. It is inappropriate for grants for learning Basque to vary for different citizens within a single autonomous community.

In-service training for adults

The authorities' report omits information about the provision of Basque language classes as part of in-service training for adults

Article 9: Judicial authorities

1. The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:

a) in criminal proceedings:

i) to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or

iii) to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or

iv) to produce, on request, documents connected with legal proceedings in the relevant regional or minority language,

if necessary by the use of interpreters and translations involving no extra expense for the persons concerned

b) in civil proceedings:

i) to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or

ii) to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or

iii) to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations involving no extra expense for the persons concerned

c) in proceedings before courts concerning administrative matters:

i) to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or

ii) to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense;

Ever since the ratification of the European Charter of Regional and Minority languages the courts have been a black spot. In spite of the Committee of Experts' or the Committee of Ministers' explicit and direct recommendations, we observe once again in the fifth evaluation that Spain HAS FAILED TO FULFIL ITS COMMITMENT.

Although the commitments acquired under article 9 of the Charter refer to the guarantee to ensure that all interested parties may use the Basque language in civil and criminal proceedings, in actual fact it is the legislation in force in Spain that determines which language is to be used in these proceedings, through article 231 of Organic Law 6/1985 on the Judiciary which establishes the following:

Article 231:

In all court procedures, judges, magistrates, prosecutors, clerks and other civil servants of the court or tribunal, shall use Spanish, the official language of Spain.

*Judges, magistrates, prosecutors, clerks and other civil servants of the court or tribunal **may** also use the official language of the Autonomous Community providing that no*

party objects to this by alleging no knowledge of the said language, which could cause a lack of proper defence.

We can therefore affirm that not only have commitments 9.1.a)i and 9.1.a)ii made by Spain, concerning the possibility of using the Basque language in civil and criminal proceedings, not been complied with but there is also a legal impediment preventing such compliance. Consequently, one of the parties simply needs to allege a lack of knowledge of the Basque language in order to ensure that the legal proceedings cannot be conducted directly in the official native language of the territory.

According to article 231.2 of Organic Law 6/1985 the situation of defencelessness can only arise when one of the parties alleges a lack of knowledge of the Basque language, amongst other things, given the fact that the Spanish Constitution establishes the duty to know the Spanish language and, consequently, no citizen can allege a lack of knowledge of this language. It is therefore repeatedly confirmed that the duty to know the Spanish language comes before the right to use the native language of the territory, which is moreover an official language.

As we mentioned previously when we have made the assessment of the recommendations of the Committee of Ministers in the fourth evaluation, it is very worrying that in the period 2014-2016 there have been changes to legislation on procedural law regarding language-related issues and yet the opportunity was not taken to incorporate what the Council of Europe had recommended. Organic Law 5/2015 of the 27th of April amended legislation on Criminal Procedure and the Organic Law of the Judiciary, Draft Directive 2010/64/UE of the 20th of October, 2010, legislation about the right to an interpreter and translation in penal procedures, and Draft Directive 2010/13/UE of the 22nd of March 2012 concerning the right to information about penal procedures. It is incomprehensible that these opportunities were wasted to implement the Council of Europe's Committee of Ministers' recommendations which have been repeated so many times

Furthermore, with regard to the language skills of staff, we must say once again that, based on the Spanish state's own information, no effective steps have been taken to ensure the existence of Basque-speaking prosecutors, magistrates or court secretaries in locations where both Basque and Spanish are official languages, and this poses an obstacle in the way of carrying out legal procedures in Basque, whether they involve civil law, punitive or administrative issues.

No changes were made in Spanish legislation in the period 2014-2016 regarding compulsory requirements of knowledge of Basque by judges, magistrates, prosecutors or secretaries.

Basically, knowledge of Basque is evaluated as a merit, but is not required.

Importantly, two elements are differentiated in our territory: one is knowledge of special civil law, and the other is knowledge of Basque. One or two years of antiquity is conceded to judges and magistrates for demonstrating knowledge of Basque.

On the other hand, knowledge of civil law is treated as a preferential merit. Here too, we conclude that the legislation fails to respond to the recommendations repeatedly made in the last evaluations of the Euro-Charter.

For prosecutors, the Spanish authorities' report says that knowledge of Basque is counted as a merit. But in fact this is not currently applied. On top of that, Royal Decree 634/2014 of the 25th of July, which regulates equivalents of the degree of prosecutor, establishes that knowledge of Basque can only be counted as a merit for a maximum of 0.9 points.

Thus it is impossible to conclude that, as the Spanish authorities claim, the current legislation favours knowledge of Basque by BAC and Navarrese judges, magistrates or prosecutors.

In fact, the legislation makes it easy to staff the courts with employees who know no Basque, and who in theory are the very people who are responsible for drawing up texts for use in Basque or who will be the decision makers in matters affecting this. This is a clear infringement of the principle of equality between all citizens.

We also consider that the authorities should be asked to present statistics and longitudinal data on the number of judges, magistrates, prosecutors and secretaries who are adequately fluent in Basque.

BASQUE AUTONOMOUS COMMUNITY

Of the 343 judges and prosecutors in the Basque Autonomous Community, a mere 16 judges and three prosecutors are bilingual.

Among high-ranking staff the level of knowledge of Basque remains very low; for instance, only 35% of processing clerks speak Basque, and 10% of forensic scientists.

There are two consequences that result from this low incidence of Basque language competence: it is virtually impossible to have a trial in Basque today, and when citizens want Basque to be used it results in delays.

The Basque Government's vice-minister of Justice has said that documents written bilingually slow down trials, and that bilingual applications directly cause delays for the applicant: "Citizens' interests are often adversely

affected because their applications have to be translated, which results in delays

News of some such cases has reached Behatokia, which has verified that when Basque is used it tends to cause delays, as in Dossier 402-2015: When a member of the public went to bear witness in court and wished to speak Basque, the member of staff told them they would have to come back another day.

Dossier 74-2005: A member of the public presented an enforcement demand and since it was in Spanish its processing was delayed twelve days for it to be translated.

In many cases, documents or forms exist in Basque yet those made available to members of the public are all in Spanish, for example Dossier 721-2013: At a provincial courthouse, a citation and the document which certifies that the citation was received were presented in Spanish only. Dossier 1251-2016: A member of the public gave advance warning tht they wished to bear witness in Basque but was still made to do so in Spanish because no interpreter had been provided.

In conclusion, even though a wide range of forms and instruments have been created in Basque versions, it is nevertheless clearly virtually impossible at this time to carry out a trial entirely in Basque, and a lot of things continue to be done in Spanish only, as a result of simple inertia.

2. The Parties undertake:

a) not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language;

That documents in Basque still get rejected in court is very serious, as in Dossier 47-2013: A member of the public was threatened that because they had sent a requested documented in Basque only, unless they sent a Spanish version that very day, the document's content would be overlooked because the judge didn't speak Basque.

UPAD DE 1ª INSTANCIA E INSTRUCCIÓN Nº 2 DE BERGARA
BERGARAKO LEHEN AUZIALDIKO ETA INSTRUKZIOKO 2
ZK.KO ZULUP

ARIZNOA s/n - C.P./PK: 20570
TEL: 943-030052
FAX: 943-030057
N.I.G. P.V. / IZO EAE: 1
N.I.G. CDPJ / IZO BAHN: 1

KOPIA DA / ES COPIA

Juicio monitorio / Juizpe monitorio 1 - E

RECLAMACION DE CANTIDAD

Demandante / Demandatzailea
Procurador / Prokuradorea:

Demandado / Demandatua
Procurador / Prokuradorea:

ORDENANCIA DE ORDENACIÓN

SECRETARIO JUDICIAL QUE LA DICTA: SUSANA PERDUEÑO OCHOA
Lugar: BERGARA (GIPUZKOA)
Fecha: veintinueve de enero de dos mil quince

Por Unai Iturietz Erdoizain, se ha presentado demanda de procedimiento monitorio.

Previamente a la admisión de la misma, procedase a su traducción, remitiéndose por correo al servicio de traducción de los Juzgados de Eibar.

MODO DE IMPUGNACIÓN: recurso de REPOSICIÓN ante el Secretario Judicial, mediante escrito presentado en la Oficina judicial en el plazo de CINCO DÍAS hábiles, contados desde el día siguiente de la notificación, expresando la infracción cometida a juicio del recurrente, sin cuyos requisitos no se admitirá la impugnación (artículos 451 y 452 de la LEC).

La interposición del recurso no tendrá efectos suspensivos respecto de la resolución recurrida (artículo 451.3 de la LEC).

Lo dispongo y firmo.

AUDIENCIA PROVINCIAL

PRESIDENCIA:

ACUERDO GUBERNATIVO DEL ILMO. SR. PRESIDENTE DE LA AUDIENCIA
PROVINCIAL DE BILBAO, D. ANGEL GIL HERNANDEZ:

ACUERDO Nº 20/13


Bilbao, 16 de diciembre de 2013.


Se ha recibido con fecha 16.12.13 queja enviada por el Observatorio de Derechos Lingüísticos, en la que un ciudadano, que no se identifica, manifiesta su queja por el hecho de no haberse respetado sus derechos lingüísticos derivados de la Ley 10/1982, de Normalización Lingüística del País Vasco, en su intervención en un asunto tramitado ante este Órgano.


Toda vez que se trata de una queja derivada del insuficiente cumplimiento de la citada Ley, con respecto a la cual ninguna atribución corresponde al Poder Judicial y, por ende a esta Audiencia, se estima procedente derivar la presente queja al Departamento de Justicia del Gobierno Vasco, en cuanto es esa Administración la que ostenta las competencias de formación lingüística de los empleados públicos de lo que de ella dependen.

Comuníquese a los interesados.

Así lo acuerdo, ordeno y mando.




CONSEJO GENERAL DEL PODER JUDICIAL
Promotor de la Acción Disciplinaria
Instituto de la Ciudadanía

Consejo General del Poder Judicial
S-2015033155
2204/046
23/07/2015


Observatorio de Derechos
Lingüísticos (Hizkuntz Eskubideen
Behatokia)
Marcelo Zelaleta, 75, U3 eraikina,
13. Bulegoa
IRUÑA
31014 Navarra

NOTIFICACIÓN SOBRE QUEJA

NP Exp. CGPJ 034794/2015A01

Madrid, 20 de julio de 2015

Asunto: Reclamación por el funcionamiento del Juzgado de Instrucción Numero 4 de Donostia-san Sebastian.

Acusamos recibo a su escrito que ha tenido entrada en el Consejo General del Poder Judicial en fecha 03.07.2015, por el que expresa su queja por deficiencias en la Juzgado de Instrucción Numero 4 de Donostia-san Sebastian .


Esta Unidad de Atención Ciudadana es responsable de la recepción y tramitación de las quejas, reclamaciones y sugerencias formuladas por los ciudadanos por el funcionamiento de Juzgados y Tribunales, de conformidad con el Reglamento 1/98 del Consejo General del Poder Judicial.

Al ir referida su queja al uso de la lengua oficial, trasladamos su queja a la Dirección General de Relaciones con la Administración de Justicia del Gobierno del País Vasco, competente para conocimiento y, en su caso, adopción de las medidas que procedan para subsanar las deficiencias que se detecten, en el ámbito de sus competencias sobre dotación de medios humanos y personales en la Administración de Justicia de ese territorio.

Le agradecemos la presentación de su escrito pues con ello nos permite mejorar el funcionamiento de la Administración de Justicia.

Reciba un cordial saludo,


Ana María Pérez Blanco
Letrada de la Unidad de Atención Ciudadana



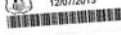
C/ Trafalgar, 27-29
28071 - Madrid

Tel.: 917005868

www.poderjudicial.es


CONSEJO GENERAL DEL PODER JUDICIAL
Servicio de Inspección


Madrid, 11 de julio de 2013

Consejo General del Poder Judicial
S-2013024608
1004/046
12/07/2013


OBSERVATORIO DE
DERECHOS LINGÜÍSTICOS
MARCELO ZELAIETA ETORBIDEA, 75
-35014 IRUÑA
EUSKAL HERRIA

Acusamos recibo de sus escrito que tuvo entrada en este Servicio de Inspección el pasado día 4 de julio, en el que interpone queja contra el Juzgado de Primera Instancia e Instrucción nº 2 de Tolosa , por los motivos que obran en el escrito, entendiéndose por este Servicio de Inspección que la competencia para su tramitación corresponde al Secretario de Gobierno de Tribunal Superior de Justicia del País Vasco, órgano al que se la remitimos con esta fecha y al que puede dirigirse en su caso.

LA JEFA DEL SERVICIO DE INSPECCION



Fdo.: M^a Virginia García Alarcón

Article 10: Administrative authorities and public services

10.2. In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

a. the use of regional or minority languages within the framework of the regional or local authority;

b. the possibility for users of regional or minority languages to submit oral or written applications in these languages;

c. the publication by regional authorities of their official documents also in the relevant regional or minority languages;

The Committee of Experts presented a specific complaint in their fourth report about what was going on in the autonomous community police (the Ertzaintza) and the health service (Osakidetza), and requested specific information about these areas.

ERTZAINZA – THE BASQUE AUTONOMOUS POLICE

According to our currently available data, 38% of the 8,000 agents in the Ertzaintza (BAC police) had some certified level of Basque; in 2017 the figure was 43%.

Attempting a breakdown of the numbers given, according to the Minister's figures, only 91 of the 584 Ertzaintza agents aged 35 or under had a C1 level in Basque in terms of the European Framework.

The statistics for other groups are worse, and this definitely interferes with their ability to provide services in Basque. In the 36-55 age group, 43% of agents demonstrate some level of Basque language ability, and 10% had certified C1, which is the minimum level needed to be capable of working in Basque.

But these are still inadequate percentages to ensure that citizens' rights will be upheld. Reports that Behatokia has received from members of the public show that the police have been one of the black spots once more in the period 2014-2016. In some instances, citizens have not just seen their rights violated but have also had to put up with abusive attitudes from police officers.

We have received reports of language rights infringements by Ertzaintza agents in a large number of Dossiers (e.g. 39-013, 325-2013, 361-2013, 406-2013, 637-2013, 567-2014, 594-2014, 101-2015, 574-2015, 422-2015). The following is a selection of incidents:

- The agent phones a member of the public and starts speaking in Spanish.
- In many police stations attention is given in Spanish even when the person has asked for attention in Basque.
- When a member of the public went to the police station to report something, they were asked to speak Spanish, and if not, told to come back another day.
- At a police road block, the police agents spoke Spanish .
- Fines issued in Spanish only.
- Etc.

In addition to these things, people get a lot of rude responses from the police, such as Dossier 594-2014: An Ertzaina police agent retorted to a member of the public that they ought to be able to speak Spanish, saying (in Spanish): “*Come on, we’re not going to start arguing over silly things like Basque language,*” or Dossier 492-2016: A member of the public approached an Ertzaina agent speaking Basque, the police agent answered back (in Spanish): “*Don’t you talk to me like that!*”

HEALTH SECTOR: OSAKIDETZA (the BAC’s public health service)

In their fourth evaluation, the Committee of Experts also asked for further information about the language skills of health service staff. In this connection, we wish to point out that today still only 34% of the staff in Osakidetza can speak Basque.

We suggest that the Committee of Experts look into these issues and ask the authorities how these 34% of Basque speakers are distributed: how many of those jobs are administrative positions and how many directly involve providing medical attention, i.e. the report ought to indicate how many doctors and nurses have Basque language credentials.

Behatokia has processed many dossiers in the period 2014-2016 received from people who complain about being denied medical attention in Basque. A few telling examples follow:

- Dossier 745-2013: Reception was attended by non Basque speakers who only spoke Spanish at the Araba provincial hospital. Information on the screens was in Spanish only. The doctor attended to them in Basque.
- Dossier 746-2013: At the Araba hospital, the mother of a child had to act as an interpreter because the nurse administering an ECG was unable to perform using Basque.

- Dossier 952-2013: An eight year old child was taken into a room alone for an ultrasound scan and neither the doctor nor the nurse could communicate with the child in Basque.
- Dossier 986-2013: A member of the public requested a Basque-speaking pediatrician and was denied one.
- Dossier 488-2014: A six year old boy was taken to hospital for a test with a psychiatrist who was unable to communicate with the child properly because of ignorance of Basque. The IQ test that was administered also had not been translated into Basque and had to be done in Spanish. As a result, the test could not be completed.
- Dossier 532-2014: The substitute doctor who was assigned to stand in for a Basque-speaking doctor was not a Basque speaker.
- Dossier 149-2015: A nine year old girl needed attention in a mental health area, and this service could not be provided in Basque.
- Dossier 376-2015: A member of the public gave birth in a Bilbao hospital. Neither the receptionist nor the midwife nor the nurse on the second day nor the paediatrician nor the psychiatrist who was assigned the following month could speak Basque.
- Dossier 991-2015: In a health centre in a Basque-speaking area, the training course provided by midwives in preparation for giving birth is offered entirely in Spanish, without any provision for an option to do the course in Basque.
- Dossier 836-2016: The new child psychiatrist who has been assigned to a hospital in a Basque-speaking area speaks no Basque and cannot provide attention in Basque.
- Etc.

Behatokia supports Osakidetza's campaign to prioritise Basque as the language of attention to citizens. According to the authorities' report, in September, 2016 almost 12% of the public asked for Basque to be made the priority language. But we should point out that being the language of preference still doesn't mean that all members of the public who wish to be provided all services in Basque will get them.

MISCELLANEOUS

Speaking in general of the BAC government and in view of its own figures provided in 2016, some bold remodelling is clearly due.

According to the 2016 figures, in areas other than education, police and health, only 54.34% of government service employees have an accredited level in Basque language.

Although the proportion is very high in certain of these areas, there are others where it is low: for example, in LANBIDE, the self-regulating government service which administers the Basque Autonomous Community's employment offices, only 31.3% of employees have a certified

level of knowledge of Basque; while in the Academy of Police and Emergency Services the figure is as low as 28.6%.

Article 11: Media

1. The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

a) to the extent that radio and television carry out a public service mission::

i) to ensure the creation of at least one radio station and one television channel in the regional or minority languages;

b) i) to encourage and/or facilitate the creation of at least one radio station in the regional or minority languages;

c) i) to encourage and/or facilitate the creation of at least one television channel in the regional or minority languages;

d) to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;

e) i) to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages;

f) ii) to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;

g) to support the training of journalists and other staff for media using regional or minority languages.

The Spanish state points out in its report that according to Article 3.2.e of Law 17/2006 of the 5th of June about radio and television stations dependent on the state, linguistic diversity is among the principles that must be upheld. Moreover, legal doctrine says that all public authorities in the territory of the BAC are obliged to ensure that there is Basque language radio and television programming.

The report does not mention the question of whether, in the time slots when Televisión Española cuts off to allow time for local programming in the Basque Autonomous Community and Navarre, there is any Basque language content or not. In fact there is only a token use of Basque.

It is true that in the Basque Autonomous Community today a TV station and a radio station that are Basque-language-only exist, so these commitments are met.

However, it is relevant to point out, although not directly linked to the commitment document, that there are a lot of complaints regarding the programming of the public Basque-language television station.

For instance, the news programme on weekend evenings on the Spanish language TV station lasts an hour; the one on the Basque language station only lasts twenty minutes.

With regard to the current subsidies for Basque language media which are noted in the authorities' report, there are certain aspects to which we would like to draw attention.

In the period 2013 to 2016, subsidies received by the only community-wide Basque language newspaper, Berria, were progressively reduced.

This contrasts strikingly with the way Spanish-language media were given subsidies for having a purely token presence of Basque.

Although it is true that subsidies are given to the media to promote Basque, they are not sufficient to be able to run projects properly, and to face up to situations involving large companies creating free papers. If, for example, the salaries from other papers were applied, they could not adapt to the standard costs and we believe that although the Basque media requires subsidies to be feasible, they should have to option of providing appropriate work conditions.

Another important issue that has to be raised while we are on this subject is the intolerable use that is made of official publicity. On the one hand, Basque language media do indeed receive direct subsidies for using Basque.

But in fact, the media which do not use Basque get indirectly subsidised through their use as the outlet for official publicity, which is not linked to any language commitment.

In a debate in the BAC parliament in May 2016 it was revealed that the BAC government only allotted 3% of its institutional publicity to Basque language media. What is more, in its 2015 guidelines on publicity the government did not incorporate any criteria about this.

Finally, legislation regulating local TV services was passed in 2006.

Although it is true that all channels should guarantee a minimum in Basque, Decree 190/2006 which regulates terrestrial television did not ensure that there is at least one channel in each demarcation broadcasting entirely in Basque. The possibility was not denied but nor was it assured. Different organisms working in the media in Basque asked the government to ensure, through the Decree, that for every four channels, one would broadcast entirely in Basque, but this request was not taken into account.

This legislation set a ten-year deadline for television stations to work up to the minimum threshold of Basque language use established by the government. Over ten years have passed but the authorities offer no information about this in their report. We have reasons for concern over whether or not the licence-holding media companies are meeting this language quota.

Article 12: Economic and social life

- 1. With regard to economic and social activities, the Parties undertake, within the whole country:*
- a) to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;*
 - b) to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;*
 - c) to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;*
 - d) to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.*

The authorities' report references the Basque Autonomous Community's Law 6/2003 of the 22nd of December regarding the rights of individual consumers and users.

Chapter 7, point 2 of this law covers language rights. It is developed in detail by Decree 123/2008, passed by the BAC government, which stipulates the language rights of individual consumers and users.

However, what the report doesn't say is that this has had several amendments in relation to safeguards of citizens' rights.

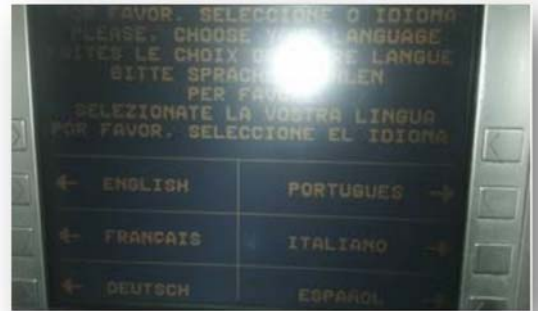
Decree 204/2010 approved on the 20th of July, 2010 stipulated that companies had a three-year deadline to comply with the requirements of the aforementioned laws. As in other regulatory legislation of this kind, the new law establishes penalties for companies failing to obey the law, but a three-year grace period was conceded.

In 2012 a new law was passed making the previous one null and void, thereby cancelling the stipulations that had been made regulating penalties for companies failing to comply with the law.

With this, the first law has for all intents and purposes lost all effect, since it laid down certain obligations which can be overlooked by companies with no legal consequences.

In a study carried out by Kontseilua in 2015 it was found that respect for citizens' language rights relies entirely on the voluntary disposition of individual companies.

Basque in the Basque Autonomous Community



2. With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:

a) to include in their financial and banking regulations provisions which allow, by means of procedures compatible with commercial practice, the use of regional or minority languages in drawing up payment orders (cheques, drafts, etc.) or other financial documents, or, where appropriate, to ensure the implementation of such provisions;

The authorities' report says that Decree 123/2008 regarding the language rights of individual consumers and users establishes the language requirements for the documents of financial and credit organisations.

However, we would like to point out that this law does not make any stipulation regarding instances of non-compliance with the rules it lays down. Hence although the law states obligations, non-fulfilment has no consequences.

Here are some graphic representations of some of the complaints received by Behatokia from members of the public:

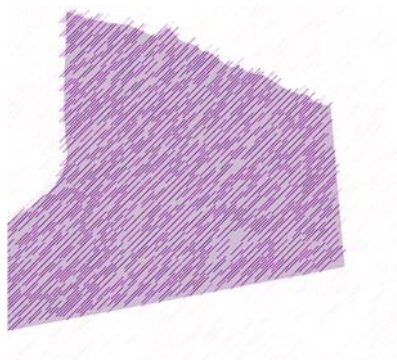


c) to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;

For the health services please refer to our explanations in pages 61-62.



6. Basque in the Foral Community of Navarre



Article 8: Education

1. With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

a) i) to make available pre-school education in the relevant regional or minority languages

In Iruñea (also known as Pamplona), the capital of Navarre, out of seventeen public infant schools which offer the first stage of infant education, five are run by the city council and the rest by the government of the Navarrese autonomous community.

In the period 2013-2016 only two of these public infant schools had a Basque-medium education project and both are located in the same neighbourhood. 11% of all available places are for Basque. In contrast, three schools offer a Spanish/English project, representing 32% of the total available places.

In the remainder, which make up 57%, all teaching is through Spanish.

This situation resulted in a lot of public protest, and in 2015 some changes were made. The city council expanded its provision of Basque language programmes to include four more infant schools.

However, although the number of places for Basque language programmes has increased to 24% of the total, in a survey carried out by Iruñea City Council of parents during the pre-registration campaign in March 2016, 38% of those surveyed said they wished they could have enrolled their children in a Basque language programme. This shows that the supply remains short of the demand. There were no places to receive Basque in the central district of the city.

Not a single one of the five infant schools in the city that are run by the Navarrese government has any Basque language programme.

b) i) to make available primary education in the relevant regional or minority languages;

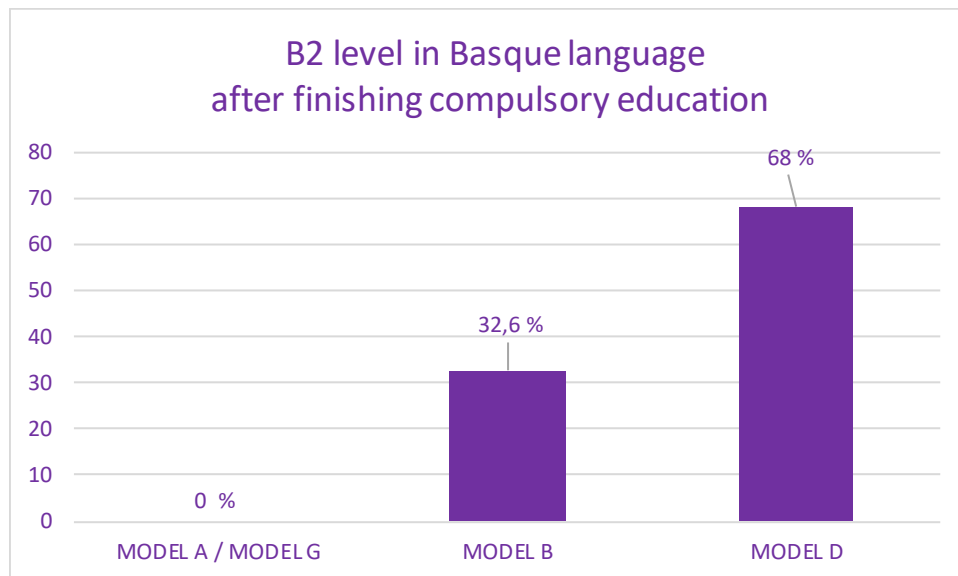
c) i) to make available secondary education in the relevant regional or minority languages;

In the Autonomous Community of Navarre the following multiple-“model” system is in place in schools:

- Model G: Everything in Spanish
- Model A: All teaching in Spanish, with Basque taught as a subject
- Model B: Some subjects are taught in Spanish, others in Basque
- Model D: All teaching in Basque, with Spanish taught as a subject

In the legally specified Basque-speaking zone of Navarre there are no Model G schools, so at the very least students study Basque as a subject. However, the authorities make no assessment to determine the degree of competence in Basque attained by pupils on completion of compulsory education.

In the Basque Autonomous Community the autonomous government did carry out studies of this kind. It is unlikely that there is much difference between these findings and what would be found in Navarre. Here then is what those studies found:



A form of discrimination is practised among pupils in Navarre, who attain different levels of fluency in Basque depending on which model their school is in. Therefore this system of school models violates a basic principle of equality for schoolchildren.

There has been much concern in Navarre about confusion between the models. Different language models are combined in the same school or the same building. Given that they are located in areas which are sociolinguistically largely Spanish-speaking, this has the effect of compromising the acquisition of Basque by these pupils.

In the towns of Noain and Sarriguren, for example, there was a petition for Basque immersion pupils to be placed in a separate building in order to favour Basque language acquisition.

d) i) to make available technical and vocational education in the relevant regional or minority languages;

We find the figures given in the authorities' report alarming. They show that the provision in Basque of a mere 2.60% of the total teaching in Occupational Training is clearly inadequate. It should be born in mind that

the demand for teaching through the medium of Basque in compulsory education is on the rise in Navarre, and the resources needed for this are being withheld.

We suggest the Committee of Experts ought to issue a specific recommendation about this matter.

e) i) to make available university and other higher education in regional or minority languages;

According to information given by the university itself, in the year 2000 20% of the student body was Basque-speaking, and in 2017 30% is, so the proportion of Basque-speaking students is on the rise.

However, these increases have not been matched in the same proportion by growth in the provision of Basque language courses. In fact, the only degrees offered today entirely in Basque are Teacher Education for infants and primary schools.

In all the other degrees combined, only 148 classes per semester are offered in Basque.

We're talking about eighteen different degrees, so taking a simple average that would come to eight classes in Basque per semester in each entire degree. In actual fact, in some degrees there is hardly any Basque at all, e.g. Labour Relations and Human Resources, Nursing, Food Processing and Product Innovation, to name three.

We have received complaints related to this. Dossier 517-2013: A group of students reported to us that even though they had signed up for Mathematics in Basque in the Public University of Navarre, forty Engineering students were forced to take it in Spanish because there was only one instructor available who knew how to teach it in Basque.

To conclude this section, we would like to draw attention to the fact that 60% of all university students from the Autonomous Community of Navarre who enrol to study in the Basque Autonomous Community sign up to study in Basque.

f) i) to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages;

The authorities provide no information about the extent to which this commitment is being fulfilled.

According to data available to Behatokia, it is true that grassroots organisations teaching Basque to adults have got their grants back.

However, the grants are at the same level as those which were being given in 2012, meaning that the situation has not been normalized in view of the fact that enrolment has risen since then and the general cost of living has also risen.

However, the current grants are still a long way from making it free to learn Basque, so we believe there needs to be a rethinking in the adult grant system to make it possible for the language to be studied free of charge anywhere in Navarre.

2. With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.

As was noted earlier, in a large part of Navarre, Section III of the Charter is not applied.

But as the authorities' report says, Law 18/1986 was amended in February, 2015 to allow Basque education to be offered throughout Navarre.

We think it lamentable that although the law has been changed, the government has not adopted a policy in accordance with the new legislation. A Navarrese union performed a survey in the parts of Navarre where Basque is not recognised as an official language and found that only 7.5% of the schools gave out accurate information about the Basque language model.

The union phoned forty schools and asked whether they could teach through Basque. Although according to the new legislation the answer should have been yes, 10% said they wouldn't answer the question over the phone, 32% wouldn't give information about the Basque language option, 57% offered information but half of these gave garbled information to discourage enrolment. Another ten schools suggested opting for a different model. Only 7.5% gave the right information.

This is all highly lamentable, because it may have strongly influenced parents' choices on whether to opt for education through Basque.

Article 9: Judicial authorities

1. The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:

a) in criminal proceedings:

i) to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or

iii) to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or

iv) to produce, on request, documents connected with legal proceedings in the relevant regional or minority language,

if necessary by the use of interpreters and translations involving no extra expense for the persons concerned

b) in civil proceedings:

i) to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or

ii) to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or

iii) to allow documents and evidence to be produced in the regional or minority languages,

if necessary by the use of interpreters and translations involving no extra expense for the persons concerned

c) in proceedings before courts concerning administrative matters:

i) to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or

ii) to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense;

Ever since the ratification of the European Charter of Regional and Minority languages the courts have been a black spot. In spite of the Committee of Experts' or the Committee of Ministers' explicit and direct recommendations, we observe once again in the fifth evaluation that Spain HAS FAILED TO FULFIL ITS COMMITMENT.

Although the commitments acquired under article 9 of the Charter refer to the guarantee to ensure that all interested parties may use the Basque language in civil and criminal proceedings, in actual fact it is the legislation in force in Spain that determines which language is to be used in these proceedings, through article 231 of Organic Law 6/1985 on the Judiciary which establishes the following:

Article 231:

In all court procedures, judges, magistrates, prosecutors, clerks and other civil servants of the court or tribunal, shall use Spanish, the official language of Spain.

Judges, magistrates, prosecutors, clerks and other civil servants of the court or tribunal may also use the official language of the Autonomous Community providing that no party objects to this by alleging no knowledge of the said language, which could cause a lack of proper defence.

We can therefore affirm that not only have commitments 9.1.a)i and 9.1.a)ii made by Spain, concerning the possibility of using the Basque language in civil and criminal proceedings, not been complied with but there is also a legal impediment preventing such compliance. Consequently, one of the parties simply needs to allege a lack of knowledge of the Basque language in order to ensure that the legal proceedings cannot be conducted directly in the official native language of the territory.

According to article 231.2 of Organic Law 6/1985 the situation of defencelessness can only arise when one of the parties alleges a lack of knowledge of the Basque language, amongst other things, given the fact that the Spanish Constitution establishes the duty to know the Spanish language and, consequently, no citizen can allege a lack of knowledge of this language. It is therefore repeatedly confirmed that the duty to know the Spanish language comes before the right to use the native language of the territory, which is moreover an official language.

As we mentioned previously when we have made the assessment of the recommendations of the Committee of Ministers in the fourth evaluation, it is very worrying that in the period 2014-2016 there have been changes to legislation on procedural law regarding language-related issues and yet the opportunity was not taken to incorporate what the Council of Europe had recommended. Organic Law 5/2015 of the 27th of April amended legislation on Criminal Procedure and the Organic Law of the Judiciary, Draft Directive 2010/64/UE of the 20th of October, 2010, legislation about the right to an interpreter and translation in penal procedures, and Draft Directive 2010/13/UE of the 22nd of March 2012 concerning the right to information about penal procedures. It is incomprehensible that these opportunities were wasted to implement the Council of Europe's Committee of Ministers' recommendations which have been repeated so many times

Furthermore, with regard to the language skills of staff, we must say once again that, based on the Spanish state's own information, no effective steps have been taken to ensure the existence of Basque-speaking prosecutors, magistrates or court secretaries in locations where both Basque and Spanish are official languages, and this poses an obstacle in the way of carrying out legal procedures in Basque, whether they involve civil law, punitive or administrative issues.

No changes were made in Spanish legislation in the period 2014-2016 regarding compulsory requirements of knowledge of Basque by judges, magistrates, prosecutors or secretaries.

Basically, knowledge of Basque is evaluated as a merit, but is not required.

Importantly, two elements are differentiated in our territory: one is knowledge of special civil law, and the other is knowledge of Basque. One or

two years of antiquity is conceded to judges and magistrates for demonstrating knowledge of Basque.

On the other hand, knowledge of civil law is treated as a preferential merit. Here too, we conclude that the legislation fails to respond to the recommendations repeatedly made in the last evaluations of the Euro-Charter.

For prosecutors, the Spanish authorities' report says that knowledge of Basque is counted as a merit. But in fact this is not currently applied. On top of that, Royal Decree 634/2014 of the 25th of July, which regulates equivalents of the degree of prosecutor, establishes that knowledge of Basque can only be counted as a merit for a maximum of 0.9 points.

Thus it is impossible to conclude that, as the Spanish authorities claim, the current legislation favours knowledge of Basque by BAC and Navarrese judges, magistrates or prosecutors.

In fact, the legislation makes it easy to staff the courts with employees who know no Basque, and who in theory are the very people who are responsible for drawing up texts for use in Basque or who will be the decision makers in matters affecting this. This is a clear infringement of the principle of equality between all citizens.

We also consider that the authorities should be asked to present statistics and longitudinal data on the number of judges, magistrates, prosecutors and secretaries who are adequately fluent in Basque.

THE FORAL COMMUNITY OF NAVARRE

That being the case, we think that the authorities have failed to provide necessary information either about the Basque language skills of auxiliary staff who answer to the regional authorities in the courts system, or about measures taken in the period 2014-2016.

We suspect that there may not even be a single Basque-speaking judge or prosecutor in Navarre's courts.

Hence, if it was very difficult to get a trial in Basque in the Basque Autonomous Community, in Navarre it is impossible.

Furthermore, in the Navarrese courts all notifications and summonses are sent out in Spanish only. Basque barely manages to have a token presence in Navarrese courts of law.

JUZGADO DE LO PENAL Nº 1
c/ San Roque, 4 - 4ª Planta
Pamplona/Iruña
Teléfono: 848.42.42.57
Fax: 848.42.42.51
Código: 00001

Procedimiento: PROCEDIMIENTO
ABREVIADO
Nº Procedimiento: 000045/2015

CÉDULA DE CITACIÓN
ÓRGANO JUDICIAL QUE ORDENA CITAR
Juzgado de lo Penal Nº 1

RESOLUCIÓN QUE LO ACUERDA
Resolución de fecha de hoy dictada en el Procedimiento Abreviado nº [redacted] seguida por testigos.

PERSONA A LA QUE SE CITA:
D./Dña [redacted] CALIDAD DE [redacted] TESTIGO en la causa indicada.

OBJETO DE LA CITACIÓN
Asistir al juicio oral en la causa indicada y declarar en calidad de testigo.

LUGAR, DÍA Y HORA DONDE DEBE COMPARECER:
[redacted]


PREVENCIONES LEGALES
Es obligatoria su asistencia. Los ciudadanos tienen la obligación de colaborar con la justicia (artículo 118 de la Constitución). En caso de ausencia justificada podrá ser sancionado con una multa de 200 a 5000 euros.

EN SU CALIDAD DE VÍCTIMA DEL DELITO se adjunta hoja de información de derechos, haciéndole saber que si desea ejercitar los derechos comprendidos en el artículo 7 del Estatuto de la Víctima, deberá proporcionar a este órgano judicial correo electrónico o, en su defecto, dirección postal a dónde remitir las correspondientes notificaciones, así como informar de cualquier cambio en dichas direcciones.

En Pamplona/Iruña, a [redacted] del 2016.
El/La Letrado de la Administración de Justicia

PERSONA A CITAR:
[redacted]

DOMICILIO:
[redacted]
PAMPLONA

 **Juzgado de Primera Instancia Nº 6**
c/ San Roque, 4 - 4ª Planta
Pamplona/Iruña
Teléfono: 848.42.42.57
Fax: 848.42.42.51
Código: 00001

Sección: B
Procedimiento: PROCEDIMIENTO
ORDINARIO (DERECHO AL HONOR -
249.1.2)
Nº Procedimiento: 0000521/2014
NIG: 3120142120140004185
Materia: Derecho de la persona

CÉDULA DE CITACIÓN
ÓRGANO QUE ORDENA CITAR
JUZGADO DE PRIMERA INSTANCIA Nº 6 de PAMPLONA/IRUÑA.

ASUNTO EN QUE SE ACUERDA
El arriba referenciado.

PERSONA A LA QUE SE CITA
Dña [redacted]
Domicilio en C/ San Roque, 401
PAMPLONA

En concepto de TESTIGO, para actuar en dicho juicio, propuesto/solicitado por la parte demandante.


OBJETO DE LA CITACIÓN
Concurrir al juicio o vista a fin contestar al interrogatorio de preguntas de las partes sobre hechos controvertidos en el pleito.

DÍA, HORA Y LUGAR EN QUE DEBE COMPARECER
Se le cita para el día 11 de Febrero del 2016 a las 11:30 horas, en Sala de vistas 401 (Planta 4) de este Órgano Judicial sito en c/ San Roque, 4 - 4ª Planta, Pamplona/Iruña.

PREVENCIONES LEGALES
1.- Los testigos tienen el deber de comparecer en el juicio o vista para el que fueron citados (artículo 292.1 de la Ley 1/2000 de Enjuiciamiento Civil LEC).
2.- La infracción de este deber será sancionada, previa audiencia, con una multa de ciento ochenta a seiscientos euros (artículo 292.1 LEC).

En Pamplona/Iruña, a 07 de octubre del 2015.
EL/LA LETRADO DE LA ADMINISTRACIÓN DE JUSTICIA

1



TRIBUNAL SUPERIOR DE JUSTICIA DE NAVARRA
SECRETARÍA DE GOBIERNO
NAFARROAKO JUSTIZIA AUZITEGI NAGUSIA
GOBERNU IDAKKARITZA

TRIBUNAL SUPERIOR DE JUSTICIA DE NAVARRA

23 ABR. 2014

N.º 956

REGISTRO DE SALIDA


Teléfono 848 42 40 60
Fax 848 42 40 67
sgobnav@goi.euzkadi.es
C/ San Roque 4
31011 Pamplona

Para su debido conocimiento y efectos procedentes en su comunicación de 2 de abril pasado, número de dossier 226/2014, le participo que el Excmo. Sr. Presidente en funciones, ha adoptado el siguiente acuerdo:

"El Observatorio de Derechos Lingüísticos, Behatokia, representado por la Sra. Petriati Ijrra, formuló, mediante escrito de fecha 2 de abril de 2014, queja porque un ciudadano no identificado solicitó en el Juzgado mediante su abogado y procurador que el procedimiento del recurso interpuesto ante el Tribunal Administrativo de Navarra contra el Gobierno de Navarra deseara realizarlo en euskera, habiendo recibido la sentencia escrito únicamente en castellano y que tales hechos suponen, para la promotora de la queja, que no se han tomado en consideración los derechos lingüísticos de los vascoparlantes y se solicita a esta Presidencia se ponga los medios para garantizar esos derechos.

En principio, se podría entender que la cuestión no afecta a la Administración de Justicia, puesto que el Tribunal Administrativo de Navarra no es un órgano judicial, sino administrativo, sobre el que esta Presidencia no tiene competencia, salvo en el caso de revisar sus sentencias si fueren recurridas por los cauces que las leyes procesales establecen.


Como no se facilita, por otra parte, dato alguno por el que se pueda identificar al Juzgado y procedimiento donde se dice se solicitó que se realizaran los trámites en euskera, nada podemos decir al respecto, salvo manifestar que en los Juzgados y Tribunales de Navarra, se cumplen ordinariamente tanto el artículo 231 de la Ley Orgánica del Poder Judicial, como la legislación foral atinente al vascoence, por lo tanto, procede rechazar la solicitud formulada por doña Garbiñe Petriati Ijrra, en representación del Observatorio de Derechos Lingüísticos Behatokia".



Pamplona, a 23 de abril de 2014

LA SECRETARIA DE GOBIERNO

POR SUSTITUCIÓN,




Fdo.: Isabel Torres Guitián

OBSERVATORIO DE DERECHOS LINGÜÍSTICOS "BEHATOKIA"

AVDA. MARCELO CELAYETA, 75, EDIFICIO U3, OFICINA 13

31014 PAMPLONA



TRIBUNAL SUPERIOR DE JUSTICIA DE NAVARRA
SECRETARÍA DE GOBIERNO
NAFARROAKO JUSTIZIA AUZITEGI NAGUSIA
GOBERNU IDAKKARITZA

TRIBUNAL SUPERIOR DE JUSTICIA DE NAVARRA

13 FEB. 2014

N.º 250


REGISTRO DE SALIDA

Teléfono 848 42 40 60
Fax 848 42 40 67
sgobnav@goi.euzkadi.es
C/ San Roque 4
31011 Pamplona

Para su debido conocimiento y efectos procedentes, en relación con sus comunicaciones de 30 de enero pasado, Expedientes 1052 y 1053 de 2013, le participo que el Excmo. Sr. Presidente en funciones, ha adoptado el siguiente acuerdo:


"El Observatorio de Derechos Lingüísticos, Behatokia, representado por la Sra. Petriati Ijrra, formuló, mediante escritos de fecha 30 de enero de 2014, sendas quejas porque un ciudadano no identificado presentó una denuncia en euskera y recibió en castellano todos los trámites del juicio y además, sin haberlo solicitado, se le proveyó de un intérprete de euskera, que rechazó, celebrándose el juicio en castellano, y que tales hechos suponen, para la promotora de la queja, que no se han tomado en consideración los derechos lingüísticos de los vascoparlantes y se solicita a esta Presidencia se ponga los medios para garantizar esos derechos.

Los hechos denunciados no constituyen una infracción del artículo 231 de la Ley Orgánica del Poder Judicial, ni tampoco la legislación foral atinente al vascoence. Cuestión distinta es que quepa adoptar medidas que impulsen el uso del euskera, tal como que haya personal que conozca este idioma o que se ponga a disposición de la ciudadanía formularios o textos de uso frecuente redactados en dicha lengua, pero este Tribunal Superior carece de competencias tanto en lo concerniente a la selección y formación del personal al servicio de la Administración de Justicia, como en lo referente a los medios materiales precisos para desarrollar su labor, correspondiendo las mismas al Ministerio de Justicia y al Gobierno de Navarra, por lo tanto, procede rechazar las solicitudes formuladas por doña Garbiñe Petriati Ijrra, en representación del Observatorio de Derechos Lingüísticos Behatokia."



Pamplona, a 13 de febrero de 2014

LA SECRETARIA DE GOBIERNO,



Fdo.: Mercedes Vitrán Arigita

OBSERVATORIO DE DERECHOS LINGÜÍSTICOS "BEHATOKIA"

AVDA. MARCELO CELAYETA, 75, EDIFICIO U3, OFICINA 13.-

31014 PAMPLONA

Article 10: Administrative authorities and public services

10.2. In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

a. the use of regional or minority languages within the framework of the regional or local authority;

b. the possibility for users of regional or minority languages to submit oral or written applications in these languages;

c. the publication by regional authorities of their official documents also in the relevant regional or minority languages;

We wish to raise the matter of **two incidents which run counter to the Charter** in this evaluation with regard to the linguistic competence of members of staff:

1) At present, knowledge of Basque is penalized in job recruitment campaigns in Navarre and doors to advancement are closed to members of staff who certify their Basque language skills. Furthermore, the way in which merits for knowledge of Basque are treated is nowhere near proportionate in comparison to that given to other languages which are neither native to Navarre nor have any official status.

According to the rules currently in place in Navarre, *individuals who have passed the required selection exams and gained access to a position in the Navarrese Public Administration for which Basque or a particular language of the European Union was a requirement, as of the 1st of January, 2009 may only opt for positions in which knowledge of that language is required.*

This discriminatory regulation originates from Article 18.3 of a law passed in 2003 (Foral Decree 29/2003). However, a ruling of the court in charge of administrative issues in the Navarrese High Court of Justice, passed down in June, 2004 following appeal number 451/2003, declared that article invalid.

The main argument used was that a decision of this kind cannot be established by decree, and if it were to be, it would require something with at least the status of a law to regulate that sort of issue. That was the reason given, but other arguments of considerable interest were also adduced, such as the observation that through this article a skill that ought to be reckoned as an added asset, ***knowledge of Basque, could be used to penalize candidates.***

The government took the ruling of the court on administrative matters to a higher level and filed a new appeal in the court of cassation (Section 6, Courtroom 3 of the Supreme Court's section of administrative disputes),

which reexamined the appeal and ruled against the disputed decree, thus ratifying the annulment of Article 18.3.

This article specifically penalizes a certain number of employees who have accredited their ability to speak Basque (or any language of the European Union, but that is not really to the point; here the central issue is Basque) and who have assumed a post on account of it, discriminating against such employees by not allowing them to present their candidacy for a transfer to any new position for which Basque language accreditation is not one of the requirements.

At present this rule remains in force, and in consequence such employees are not allowed to take part in internal competitions for posts which do not require a specific level of Basque language skills even though they are bilingual and use both languages in their current job. [

2) Job candidates in any area or specialization in the school system who have taken their exams in Basque are required to repeat the examination process in Spanish if they wish to teach classes in Spanish.

It should be recalled that according to the Spanish Constitution, all citizens are under an obligation to know Spanish; for this reason it is incomprehensible that teachers who have already been qualified to teach, say, biology, mathematics or technology should be required to repeat all their exams in Spanish.

Furthermore, it is worth mentioning that in Navarre there are at present extremely few job positions which have knowledge of Basque as a requirement; this has direct consequences for the safeguarding of the rights of citizens.

Not only is the number of jobs requiring knowledge of Basque small, there are not even very many for which it is counted as a merit to be taken into consideration when jobs are allocated.

The law regulating what value is attached to knowledge of Basque in the allocation of civil service jobs is Foral Decree 55/2009. One of the things it establishes is which are the positions in which Basque will be taken into account in the “mixed” zone of Navarre (because it is not taken into consideration for all jobs). It also stipulates that in the Basque-speaking zone the points allotted for knowledge of Basque shall not be more than 6% of the total, except for certain particular positions where it may be as much as 10% maximum. But in the mixed zone it can’t be more than 3%, or in certain specific jobs 6%.

Although it is not mentioned in this decree, another fact to consider is that knowledge of English, French or German always adds two points of merit for applicants for any job whatsoever.

Here is an example:

Recruitment campaign for jobs in the administration of the Autonomous Community of Navarre and dependent institutions, 2015

Merits:

Services performed in the Administration: 30 points

Academic qualifications: 10 points

Languages:

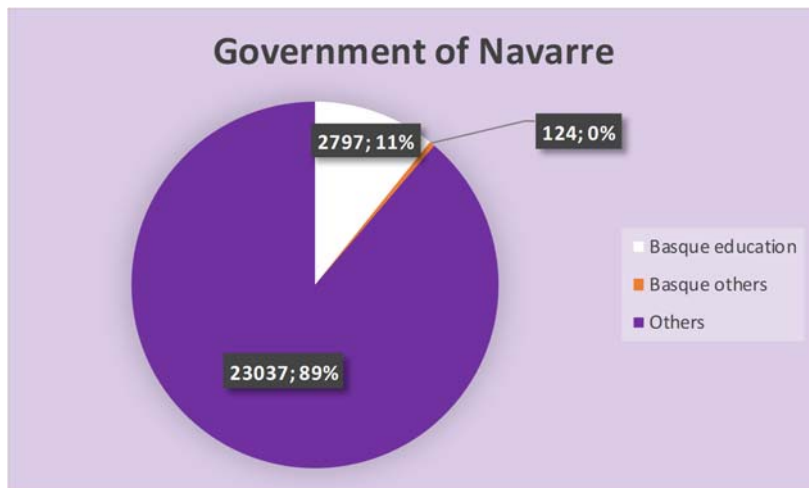
Basque: 2.76 (Basque-speak zone) / 1.38 (in the mixed zone)

English: 2

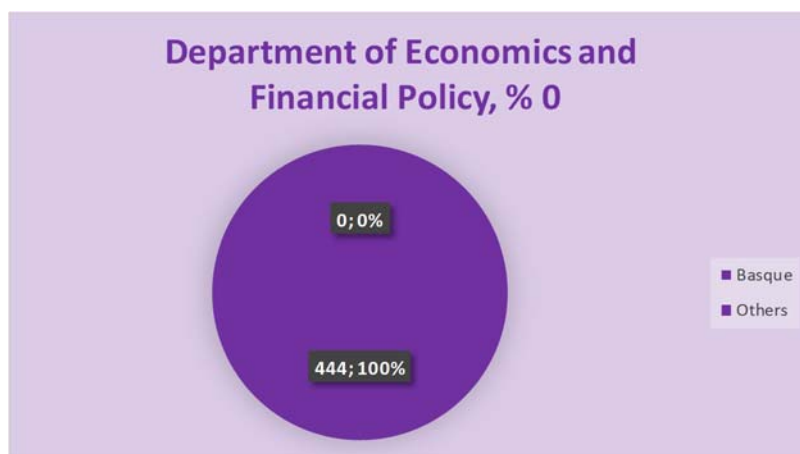
French: 2

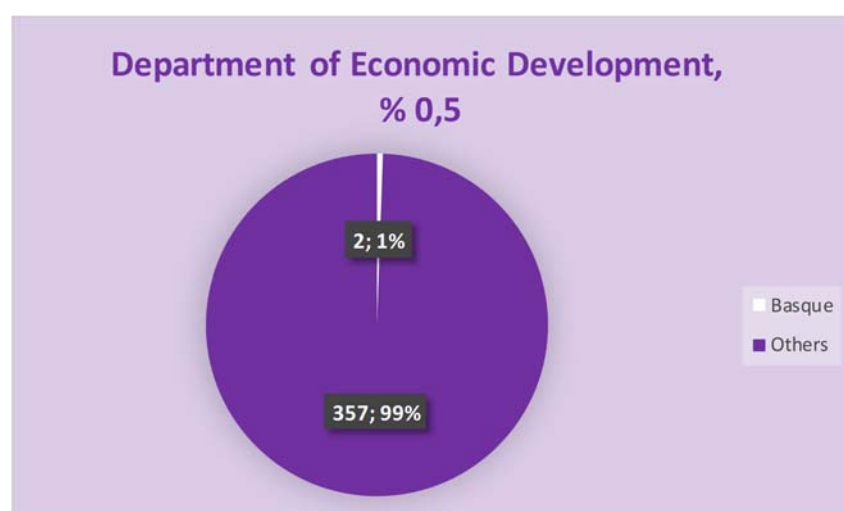
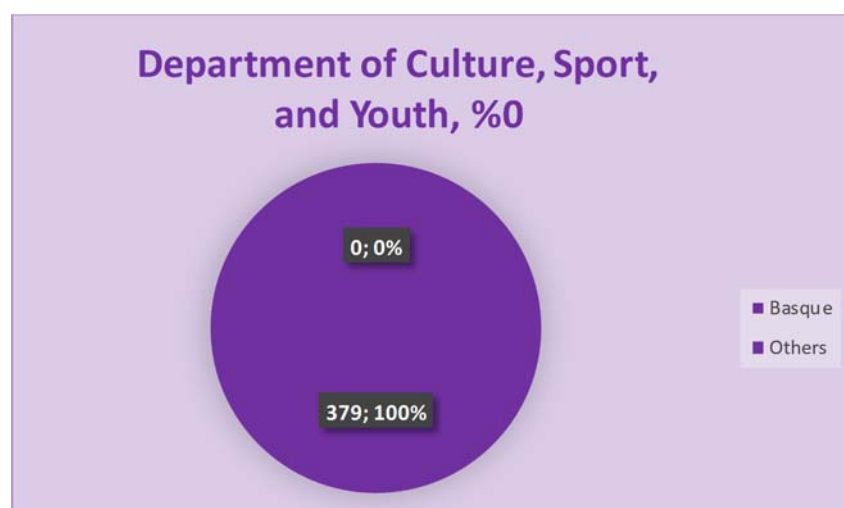
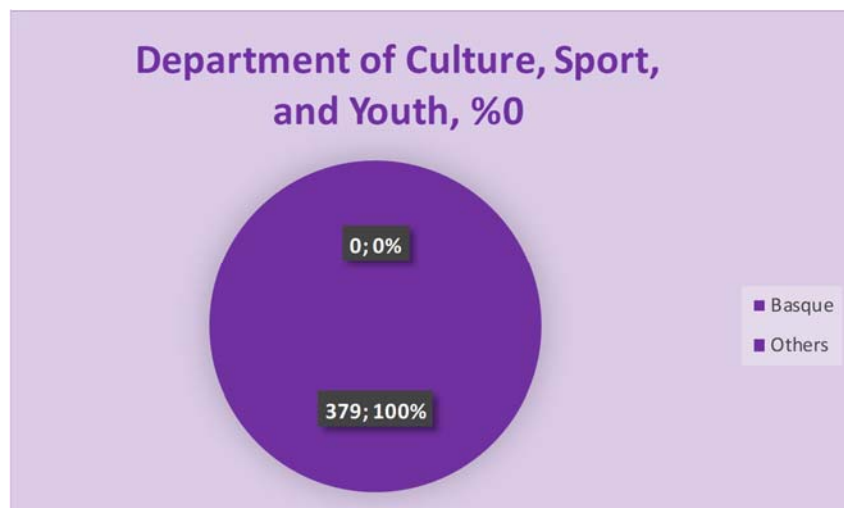
German: 2

Add to this the fact that there are extremely few jobs in the Navarrese government in which knowledge of Basque is required:



In some departments, the situation is particularly lamentable:

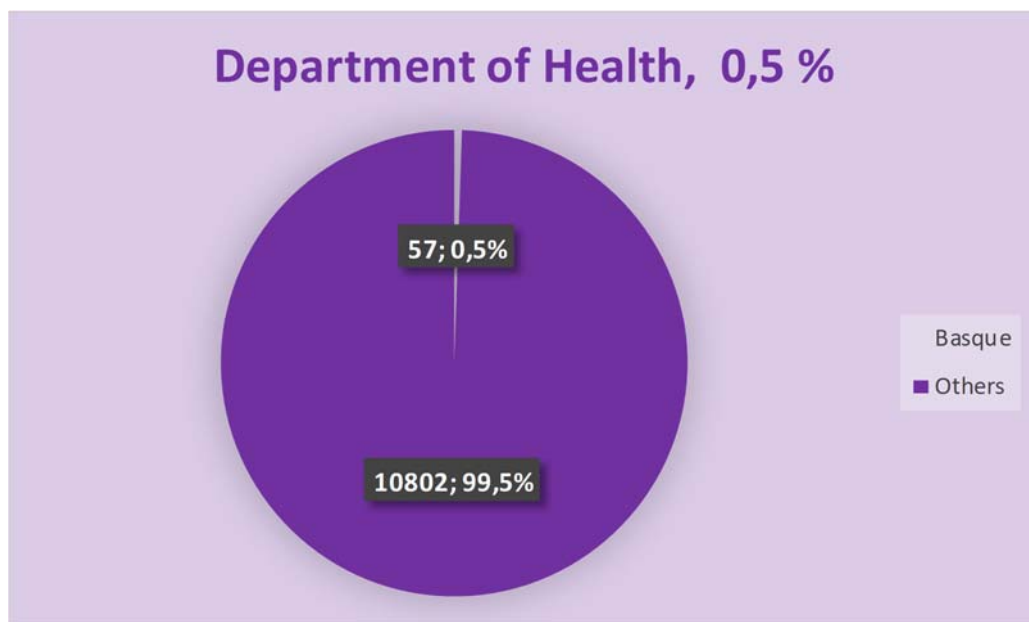




HEALTH SECTOR: OSASUNBIDEA (the Navarrese public health service)

In the last evaluation, the Committee of Experts and the Committee of Ministers itself expressed concern about issues in healthcare, so we decided to do a special study of this area.

Let us recall, first of all, that according to the Navarrese government's own figures only 0.57% of jobs in the healthcare system carry a requirement to know Basque, which means that out of the 10,802 members of staff, only 57 speak Basque. Needless to say, this is clearly insufficient to cover the needs and fulfil the rights of citizens, and falls well short of the Euro-Charter commitment.



We received a large number of complaints at Behatokia about issues with the healthcare system in the period 2014-2016. We have classified them into two groups: those referring to actual health care and the rest.

Involving health care:

- Dossier 594-2016: Someone requested a Basque-speaking doctor at an Iruñea (Pamplona) health centre and was told there aren't any.
- Dossier 231-2016: There are no Basque-speaking pediatricians working at a certain health centre in Iruñea.
- Dossier 756-2016: Someone went to a health centre and found that not a single one of the staff in the reception area was able to speak Basque.
- Dossier 999-2016: There was a Basque-speaking pediatrician but a substitute was there instead, who cannot attend in Basque even though this is in a very Basque-speaking area.

- Dossier 439-2015: In a very Basque-speaking area, the substitute doctor sent to the health centre cannot attend in Basque.
- Dossier 473-2015: In a very Basque-speaking area, the pediatrician sent to the health centre cannot attend in Basque.
- Dossier 495-2015: In a very Basque-speaking area, 518 members of the public have complained about the fact that many of the doctors and pediatricians cannot attend in Basque.
- Dossier 579-2015: For many positions working at the health centre and the women's support centre in a Basque-speaking area, knowledge of Basque is not required. Consequently, members of the public, even schoolchildren, cannot obtain attention in Basque.
- Etc.

Others

- Dossier 196-2016: Most of the posters displayed at Iruñea (Pamplona) Hospital are only in Spanish.
- Dossier 996-2016: Most health centre posters are only in Spanish.
- Dossier 272-2015: Notifications sent on cancelling a medical appointment are not in Basque.
- Dossier 803-2015: Someone's child was vaccinated and the leaflet informing about possible side effects of the vaccination was in Spanish only.
- Dossier 800-2016: The note certifying that the person had visited the health centre was in Spanish only.
- Dossier 1433-2016: The text message sent to remind the patient of an appointment with the eye doctor was in Spanish only.
- Dossier 1585-2016: A letter sent out as part of a breast cancer campaign was in Spanish only.
- Etc.

Basque in the Foral Community of Navarre

PARTE MÉDICO DE BAJA/ALTA DE INCAPACIDAD TEMPORAL POR CONTINGENCIAS COMUNES

Número BAJA: 00. Número ALTA: 00.

RÉGIMEN
 GENERAL ☒
 AUTÓNOMOS ☐
 AGR. C/PROPIA ☐
 AGR. C/AJENA ☐
 MAR ☐
 E. HOGAR ☐
 M. CARBÓN ☐

SITUACIÓN
 ACTIVO ☒
 DESEMPLEADO ☐

DATOS DEL TRABAJADOR
 NÚM. TARJETA SANITARIA:
 NÚM. AFILIACIÓN A LA SEGURIDAD SOCIAL: 31
 NÚM. DOCUMENTO NACIONAL DE IDENTIDAD:
 NOMBRE Y APELLIDOS:
 Domicilio: CALLE. Localidad: Provincia: NAVARRA Código postal: Teléfono:
DATOS DE LA EMPRESA
 Nombre de la empresa: Domicilio: Localidad: PAMPLONA/URRUA Provincia: Navarra Código postal:
 Entidad pago IT/CC: Mutua: Actividad Empresa: Código CNAE: Puesto de trabajo:
 MUTUA ☐ INSS ☒ ISM ☐ Otras actividades as:
DESCRIPCIÓN DE LIMITACIÓN DE LA CAPACIDAD FUNCIONAL (en parte de baja) / RESULTADO RECONOCIMIENTO MÉDICO (en parte de alta)
 LIMITACIONES: DURACIÓN PROBABLE DE LA BAJA? DÍAS: MESES:
 IT de: Corta duración
 Fecha revisión:
 Duración estándar: De a días.
DIAGNÓSTICO Código CIE-9 MC:
PARTE DE BAJA ☐ Fecha de la BAJA: 09/2015
PARTE DE ALTA ☒ Fecha del ALTA(*): 10/2015
DATOS DEL FACULTATIVO - CIAS
 CIAS: 10/2015
 Firma, Fecha y Sello:
 Número de colegiado: 31C
CAUSA DEL ALTA
 Curación ☐
 Fallecimiento ☐
 Inspección Médica ☐
 Propuesta de Invalidez ☐
 Agotamiento plazo ☐
 Mejoría que permite realizar trabajo ☒
 Incomparecencia ☐
 RECAÍDA SI ☐ NO ☒ ENFERMEDAD COMÚN ☒ ACCIDENTE NO LABORAL ☐
 P.9 (*) En los partes de alta, cumplimente también la fecha de la alta. Firmar para el TRABAJADOR.

Instrucciones al Paciente

Fecha Impresión: 11/2015

Paciente:
 CIPNA: TSI:
 Centro: CENTRO DE SALUD DE BARAÑAIN I
 Entregado por:
 Nº de Colegiado: (MED)

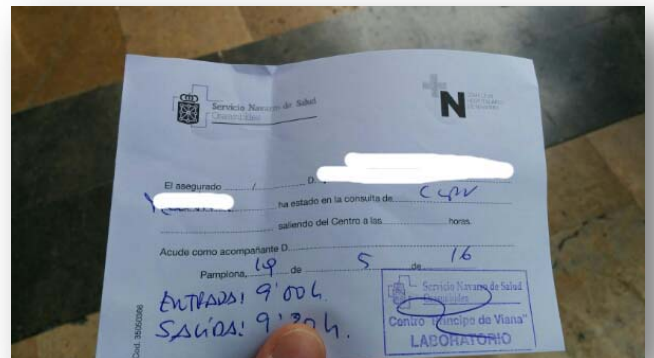
Tipo: TODAS
 Medicación: TODAS
 Ordenación: FIC-REGISTRO TRAT.

Desayuno Comida Cena Al acostarse

HORARIO	6	7	9	10/11	12	13	16	17	18	21	24
TOBRAMICINA 3MG/ML COLIRIO EN SOLUCION 5 ML											
Duración Tratamiento:	Desde	11/2015	hasta	11/2015							
Cada día		2				2				2	

2 GOTAS A LAS 08:00, 2 GOTAS A LAS 16:00, 2 GOTAS A LAS 00:00 Cada día
 VIA OFTÁLMICA

2 gotas / 8h x 7d



Article 11: Media

1. The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

a) to the extent that radio and television carry out a public service mission::

i) to ensure the creation of at least one radio station and one television channel in the regional or minority languages;

b) i) to encourage and/or facilitate the creation of at least one radio station in the regional or minority languages;

c) i) to encourage and/or facilitate the creation of at least one television channel in the regional or minority languages;

d) to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;

e) i) to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages;

f) ii) to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;

g) to support the training of journalists and other staff for media using regional or minority languages.

The Spanish state points out in its report that according to Article 3.2.e of Law 17/2006 of the 5th of June about radio and television stations dependent on the state, linguistic diversity is among the principles that must be upheld. Moreover, legal doctrine says that all public authorities in the territory of the BAC are obliged to ensure that there is Basque language radio and television programming.

The report does not mention the question of whether, in the time slots when Televisión Española cuts off to allow time for local programming in the Basque Autonomous Community and Navarre, there is any Basque language content or not. In fact there is only a token use of Basque.

It should also be noted that where Navarre is concerned commitments 11.1.a, 11.1.b. and 11.1.c are not complied with, since the government has not created any Basque-language radio or television stations.

However, we would like to use this report to remain that another important issue that has to be raised while we are on this subject is the intolerable use that is made of official publicity. On the one hand, Basque language media do indeed receive direct subsidies for using Basque.

But in fact, the media which do not use Basque get indirectly subsidised through their use as the outlet for official publicity, which is not linked to any language commitment.

But we wish to draw attention to the fact that the data which the authorities present are incomplete.

For example, the report says that the Department of Communication and Institutional Relations handed out 1,595,131 euros for Navarrese television and materials produced by audio-visual companies. Lamentably the report omits to mention that only 31% of that money went to products in Basque.

2. The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

As is mentioned in the report, in 2016 an agreement was signed to make it possible for one of the Basque Autonomous Community's Basque-language television stations to be viewed across the whole of Navarre. However, we must point out that the public children's Basque-language television station in the Basque Autonomous Community cannot be seen in the Iruñea city district, which is where most Basque-speaking children live in Navarre..

3. The Parties undertake to ensure that the interests of the users of regional or minority languages are represented or taken into account within such bodies as may be established in accordance with the law with responsibility for guaranteeing the freedom and pluralism of the media.

The report does not include any information on how the interests of Basque speakers are represented or taken into consideration

Article 12: Cultural activities and facilities

1. With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

a. to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;

b. to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;

c. to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;

d. to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;

e. to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;

f. to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;

g. to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;

h. if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language.

In our opinion the report reflects correctly the idea of the projects but does not indicate explicitly the number of activities organised in Basque, which makes it difficult to assess whether they meet the commitments.

Without a doubt, compared to the previous government, the area of Basque language is covered more accurately in the Cultural Activity Plan approved for the future. However, we think the authorities should be asked to provide more information to describe fully the activities that have been carried out in connection with the commitments in the period 2014-2016.

Furthermore, we suspect that the authorities have held back some information. For example, the government's website only gives information about the Navarrese Archives in Spanish, including the system, programmes, new developments and so on, as well as reports and printed documents available to the public.

Article 12: Economic and social life

- 1. With regard to economic and social activities, the Parties undertake, within the whole country:*
- a) to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;*
 - b) to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;*
 - c) to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;*
 - d) to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.*

There is no legislation relating to the fulfilment of obligations covered by the commitment, so everything is left to the companies' discretion. While there are no regulations prohibiting or restricting the use of Basque, nothing promotes its use either.

Moreover, no measures or activities of any kind have been undertaken in the period 2014-2016 to promote the use of Basque in the socio-economic domain.

An example of this is Navarre Law 7/2006 of 20th June, on the defence of consumers and users, which does not include the language rights of the Basque-speakers of Navarre, not even those in the so-called Basque speaking zone and, therefore, there is no regulation for the use of the Basque language and the Basque-speaking consumers / users are not considered by law.

- 2. With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:*
- a) to include in their financial and banking regulations provisions which allow, by means of procedures compatible with commercial practice, the use of regional or minority languages in drawing up payment orders (cheques, drafts, etc.) or other financial documents, or, where appropriate, to ensure the implementation of such provisions;*

With regard to bank documents, no regulations exist, therefore the commitment is not met.

The same occurs with the economic and social sectors, which are controlled by the administration. No regulations exist, and therefore the commitment is not met.

b) in the economic and social sectors directly under their control (public sector), to organise activities to promote the use of regional or minority languages;

Again, with regard to the economic and social sectors controlled by the administration, there is no regulation and as a result the commitment is not met.

c) to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reason;

With regard to the health services, as explained in pages 84-87 of the employees in the public health system were obligatorily required to know Basque in the period 2014-2016.

As a result it is impossible to receive attention in Basque.

And when patients are referred from the public health system to the private system, there is no regulation safeguarding citizens' language rights.

We think that the response of the authorities concerning senior homes and other social resources is inadequate. They give no information about the linguistic competence of staff in senior residences administered by the Navarrese government.

Despite the fact that a considerable number of positions are established in senior residences in legally identified Basque-speaking areas, no figures are provided about knowledge of Basque.

The report recognises that the member of staff in the section of Services for Seniors in the Navarrese Government is a Spanish monolingual. That is not good enough.

d) to ensure by appropriate means that safety instructions are also drawn up in regional or minority languages;

e) to arrange for information provided by the competent public authorities concerning the rights of consumers to be made available in regional or minority languages.

There is no clause in the regulations stipulating that written safety instructions should also be in Basque, so the commitment is not fulfilled.

Once again we insist that Law 7/2006 regarding protection of consumers and users contains no reference to Basque, so Basque-speaking consumers are subject to exclusion.



HIZKUNTZ ESKUBIDEEN BEHATOKIA
The Observatory of Linguistic Rights

EUSKARAREN GIZARTE ERAKUNDEEN KONTSEILUA
The Council of Social Organisations of the Basque Language